

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 203, 204, 205, 207, 214, 220, 304, 502, 506,
6 601, 701, 702, 703, 704A, 709.5, 804, 909, 911, 1002, 1101,
7 1402, 1405.4, and 1501 as follows:

8 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

9 Sec. 203. Base income defined.

10 (a) Individuals.

11 (1) In general. In the case of an individual, base
12 income means an amount equal to the taxpayer's adjusted
13 gross income for the taxable year as modified by paragraph
14 (2).

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

18 (A) An amount equal to all amounts paid or accrued
19 to the taxpayer as interest or dividends during the
20 taxable year to the extent excluded from gross income
21 in the computation of adjusted gross income, except
22 stock dividends of qualified public utilities
23 described in Section 305(e) of the Internal Revenue

1 Code;

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

6 (C) An amount equal to the amount received during
7 the taxable year as a recovery or refund of real
8 property taxes paid with respect to the taxpayer's
9 principal residence under the Revenue Act of 1939 and
10 for which a deduction was previously taken under
11 subparagraph (L) of this paragraph (2) prior to July 1,
12 1991, the retrospective application date of Article 4
13 of Public Act 87-17. In the case of multi-unit or
14 multi-use structures and farm dwellings, the taxes on
15 the taxpayer's principal residence shall be that
16 portion of the total taxes for the entire property
17 which is attributable to such principal residence;

18 (D) 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 adjusted gross income;

22 (D-5) An amount, to the extent not included in
23 adjusted gross income, equal to the amount of money
24 withdrawn by the taxpayer in the taxable year from a
25 medical care savings account and the interest earned on
26 the account in the taxable year of a withdrawal

1 pursuant to subsection (b) of Section 20 of the Medical
2 Care Savings Account Act or subsection (b) of Section
3 20 of the Medical Care Savings Account Act of 2000;

4 (D-10) For taxable years ending after December 31,
5 1997, an amount equal to any eligible remediation costs
6 that the individual deducted in computing adjusted
7 gross income and for which the individual claims a
8 credit under subsection (l) of Section 201;

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

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

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

1 equal to that subtraction modification.

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

5 (D-17) An amount equal to the amount otherwise
6 allowed as a deduction in computing base income for
7 interest paid, accrued, or incurred, directly or
8 indirectly, (i) for taxable years ending on or after
9 December 31, 2004, to a foreign person who would be a
10 member of the same unitary business group but for the
11 fact that foreign person's business activity outside
12 the United States is 80% or more of the foreign
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. The addition modification
21 required by this subparagraph shall be reduced to the
22 extent that dividends were included in base income of
23 the unitary group for the same taxable year and
24 received by the taxpayer or by a member of the
25 taxpayer's unitary business group (including amounts
26 included in gross income under Sections 951 through 964

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

5 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

23 (D-18) An amount equal to the amount of intangible
24 expenses and costs otherwise allowed as a deduction in
25 computing base income, and that were paid, accrued, or
26 incurred, directly or indirectly, (i) for taxable

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

1 Section 203(a)(2)(D-17) of this Act. As used in this
2 subparagraph, the term "intangible expenses and costs"
3 includes (1) expenses, losses, and costs for, or
4 related to, the direct or indirect acquisition, use,
5 maintenance or management, ownership, sale, exchange,
6 or any other disposition of intangible property; (2)
7 losses incurred, directly or indirectly, from
8 factoring transactions or discounting transactions;
9 (3) royalty, patent, technical, and copyright fees;
10 (4) licensing fees; and (5) other similar expenses and
11 costs. For purposes of this subparagraph, "intangible
12 property" includes patents, patent applications, trade
13 names, trademarks, service marks, copyrights, mask
14 works, trade secrets, and similar types of intangible
15 assets.

16 This paragraph shall not apply to the following:

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

24 (ii) any item of intangible expense or cost
25 paid, accrued, or incurred, directly or
26 indirectly, if the taxpayer can establish, based

1 on a preponderance of the evidence, both of the
2 following:

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

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

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

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

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

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

1 preceding sentence does not apply to the extent that
2 the same dividends caused a reduction to the addition
3 modification required under Section 203(a)(2)(D-17) or
4 Section 203(a)(2)(D-18) of this Act.

5 (D-20) For taxable years beginning on or after
6 January 1, 2002 and ending on or before December 31,
7 2006, in the case of a distribution from a qualified
8 tuition program under Section 529 of the Internal
9 Revenue Code, other than (i) a distribution from a
10 College Savings Pool created under Section 16.5 of the
11 State Treasurer Act or (ii) a distribution from the
12 Illinois Prepaid Tuition Trust Fund, an amount equal to
13 the amount excluded from gross income under Section
14 529(c)(3)(B). For taxable years beginning on or after
15 January 1, 2007, in the case of a distribution from a
16 qualified tuition program under Section 529 of the
17 Internal Revenue Code, other than (i) a distribution
18 from a College Savings Pool created under Section 16.5
19 of the State Treasurer Act, (ii) a distribution from
20 the Illinois Prepaid Tuition Trust Fund, or (iii) a
21 distribution from a qualified tuition program under
22 Section 529 of the Internal Revenue Code that (I)
23 adopts and determines that its offering materials
24 comply with the College Savings Plans Network's
25 disclosure principles and (II) has made reasonable
26 efforts to inform in-state residents of the existence

1 of in-state qualified tuition programs by informing
2 Illinois residents directly and, where applicable, to
3 inform financial intermediaries distributing the
4 program to inform in-state residents of the existence
5 of in-state qualified tuition programs at least
6 annually, an amount equal to the amount excluded from
7 gross income under Section 529(c)(3)(B).

8 For the purposes of this subparagraph (D-20), a
9 qualified tuition program has made reasonable efforts
10 if it makes disclosures (which may use the term
11 "in-state program" or "in-state plan" and need not
12 specifically refer to Illinois or its qualified
13 programs by name) (i) directly to prospective
14 participants in its offering materials or makes a
15 public disclosure, such as a website posting; and (ii)
16 where applicable, to intermediaries selling the
17 out-of-state program in the same manner that the
18 out-of-state program distributes its offering
19 materials;

20 (D-21) For taxable years beginning on or after
21 January 1, 2007, in the case of transfer of moneys from
22 a qualified tuition program under Section 529 of the
23 Internal Revenue Code that is administered by the State
24 to an out-of-state program, an amount equal to the
25 amount of moneys previously deducted from base income
26 under subsection (a)(2)(Y) of this Section;

1 (D-22) For taxable years beginning on or after
2 January 1, 2009, in the case of a nonqualified
3 withdrawal or refund of moneys from a qualified tuition
4 program under Section 529 of the Internal Revenue Code
5 administered by the State that is not used for
6 qualified expenses at an eligible education
7 institution, an amount equal to the contribution
8 component of the nonqualified withdrawal or refund
9 that was previously deducted from base income under
10 subsection (a)(2)(y) of this Section, provided that
11 the withdrawal or refund did not result from the
12 beneficiary's death or disability;

13 (D-23) An amount equal to the credit allowable to
14 the taxpayer under Section 218(a) of this Act,
15 determined without regard to Section 218(c) of this
16 Act;

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 subparagraph (E)
23 ~~amendatory Act of the 92nd General Assembly~~ are exempt
24 from the provisions of 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, plus, for taxable years
2 ending on or after December 31, 2011, Section 45G(e)(3)
3 of the Internal Revenue Code and any amount included in
4 gross income under Section 87 of the Internal Revenue
5 Code; the provisions of this subparagraph are exempt
6 from the provisions of Section 250;

7 (N) An amount equal to all amounts included in such
8 total which are exempt from taxation by this State
9 either by reason of its statutes or Constitution or by
10 reason of the Constitution, treaties or statutes of the
11 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 (O) An amount equal to any contribution made to a
17 job training project established pursuant to the Tax
18 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

1 the taxpayer under the Nursing Home Grant Assistance
2 Act during the taxpayer's taxable years 1992 and 1993;

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

1 percentage of eligible medical expenses under Section
2 213 of the Internal Revenue Code of 1986 not actually
3 deducted on the taxpayer's federal income tax return;

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

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

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

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

1 State Treasurer Act or (ii) the Illinois Prepaid
2 Tuition Trust Fund, except that amounts excluded from
3 gross income under Section 529(c)(3)(C)(i) of the
4 Internal Revenue Code shall not be considered moneys
5 contributed under this subparagraph (Y). For purposes
6 of this subparagraph, contributions made by an
7 employer on behalf of an employee, or matching
8 contributions made by an employee, shall be treated as
9 made by the employee. This subparagraph (Y) is exempt
10 from the provisions of Section 250;

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

17 (1) "y" equals the amount of the depreciation
18 deduction taken for the taxable year on the
19 taxpayer's federal income tax return on property
20 for which the bonus depreciation deduction was
21 taken in any year under subsection (k) of Section
22 168 of the Internal Revenue Code, but not including
23 the bonus depreciation deduction;

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

1 0.429); and

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

4 (i) for property on which a bonus
5 depreciation deduction of 30% of the adjusted
6 basis was taken, "x" equals "y" multiplied by
7 30 and then divided by 70 (or "y" multiplied by
8 0.429); and

9 (ii) for property on which a bonus
10 depreciation deduction of 50% of the adjusted
11 basis was taken, "x" equals "y" multiplied by
12 1.0.

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

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

26 If the taxpayer continues to own property through

1 the last day of the last tax year for which the
2 taxpayer may claim a depreciation deduction for
3 federal income tax purposes and for which the taxpayer
4 was required in any taxable year to make an addition
5 modification under subparagraph (D-15), then an amount
6 equal to that addition modification.

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

10 This subparagraph (AA) is exempt from the
11 provisions of Section 250;

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

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

1 respect to such transaction under Section
2 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
3 203(d)(2)(D-8), but not to exceed the amount of that
4 addition modification. This subparagraph (CC) is
5 exempt from the provisions of Section 250;

6 (DD) An amount equal to the interest income taken
7 into account for the taxable year (net of the
8 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(a)(2)(D-17) for
23 interest paid, accrued, or incurred, directly or
24 indirectly, to the same person. This subparagraph (DD)
25 is exempt from the provisions of Section 250;

26 (EE) An amount equal to the income from intangible

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

21 (FF) An amount equal to any amount awarded to the
22 taxpayer during the taxable year by the Court of Claims
23 under subsection (c) of Section 8 of the Court of
24 Claims Act for time unjustly served in a State prison.
25 This subparagraph (FF) is exempt from the provisions of
26 Section 250; ~~and~~.

1 (GG) For taxable years ending on or after December
2 31, 2011, in the case of a taxpayer who was required to
3 add back any insurance premiums under Section
4 203(a)(2)(D-19), such taxpayer may elect to subtract
5 that part of a reimbursement received from the
6 insurance company equal to the amount of the expense or
7 loss (including expenses incurred by the insurance
8 company) that would have been taken into account as a
9 deduction for federal income tax purposes if the
10 expense or loss had been uninsured. If a taxpayer makes
11 the election provided for by this subparagraph (GG),
12 the insurer to which the premiums were paid must add
13 back to income the amount subtracted by the taxpayer
14 pursuant to this subparagraph (GG). This subparagraph
15 (GG) is exempt from the provisions of Section 250.

16 (b) Corporations.

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

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

23 (A) An amount equal to all amounts paid or accrued
24 to the taxpayer as interest and all distributions
25 received from regulated investment companies during

1 the taxable year to the extent excluded from gross
2 income in the computation of taxable income;

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

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

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

20 (E) For taxable years in which a net operating loss
21 carryback or carryforward from a taxable year ending
22 prior to December 31, 1986 is an element of taxable
23 income under paragraph (1) of subsection (e) or
24 subparagraph (E) of paragraph (2) of subsection (e),
25 the amount by which addition modifications other than
26 those provided by this subparagraph (E) exceeded

1 subtraction modifications in such earlier taxable
2 year, with the following limitations applied in the
3 order that they are listed:

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

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

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

24 (E-5) For taxable years ending after December 31,
25 1997, an amount equal to any eligible remediation costs
26 that the corporation deducted in computing adjusted

1 gross income and for which the corporation claims a
2 credit under subsection (l) of Section 201;

3 (E-10) 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 (E-11) 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 (E-10), then
12 an amount equal to the aggregate amount of the
13 deductions taken in all taxable years under
14 subparagraph (T) 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 (T), 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 (E-12) 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;

18 (E-13) 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(b)(2)(E-12) 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 (E-14) For taxable years ending on or after

1 December 31, 2008, an amount equal to the amount of
2 insurance premium expenses and costs otherwise allowed
3 as a deduction in computing base income, and that were
4 paid, accrued, or incurred, directly or indirectly, to
5 a 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(b)(2)(E-12) or
25 Section 203(b)(2)(E-13) of this Act;

26 (E-15) For taxable years beginning after December

1 31, 2008, any deduction for dividends paid by a captive
2 real estate investment trust that is allowed to a real
3 estate investment trust under Section 857(b)(2)(B) of
4 the Internal Revenue Code for dividends paid;

5 (E-16) An amount equal to the credit allowable to
6 the taxpayer under Section 218(a) of this Act,
7 determined without regard to Section 218(c) of this
8 Act;

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

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

16 (H) In the case of a regulated investment company,
17 an amount equal to the amount of exempt interest
18 dividends as defined in subsection (b) (5) of Section
19 852 of the Internal Revenue Code, paid to shareholders
20 for the taxable year;

21 (I) With the exception of any amounts subtracted
22 under subparagraph (J), an amount equal to the sum of
23 all amounts disallowed as deductions by (i) Sections
24 171(a) (2), and 265(a)(2) and amounts disallowed as
25 interest expense by Section 291(a)(3) of the Internal
26 Revenue Code, ~~as now or hereafter amended,~~ and all

1 amounts of expenses allocable to interest and
2 disallowed as deductions by Section 265(a)(1) of the
3 Internal Revenue Code, ~~as now or hereafter amended~~; and
4 (ii) for taxable years ending on or after August 13,
5 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
6 832(b)(5)(B)(i) of the Internal Revenue Code, plus,
7 for tax years ending on or after December 31, 2011,
8 amounts disallowed as deductions by Section 45G(e)(3)
9 of the Internal Revenue Code and any amount included in
10 gross income under Section 87 of the Internal Revenue
11 Code and the policyholders' share of tax-exempt
12 interest of a life insurance company under Section
13 807(a)(2)(B) of the Internal Revenue Code (in the case
14 of a life insurance company with gross income from a
15 decrease in reserves for the tax year) or Section
16 807(b)(1)(B) of the Internal Revenue Code (in the case
17 of a life insurance company allowed a deduction for an
18 increase in reserves for the tax year); the provisions
19 of this subparagraph are exempt from the provisions of
20 Section 250;

21 (J) An amount equal to all amounts included in such
22 total which are exempt from taxation by this State
23 either by reason of its statutes or Constitution or by
24 reason of the Constitution, treaties or statutes of the
25 United States; provided that, in the case of any
26 statute of this State that exempts income derived from

1 bonds or other obligations from the tax imposed under
2 this Act, the amount exempted shall be the interest net
3 of bond premium amortization;

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

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

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

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

21 (M-1) For any taxpayer that is a financial
22 organization within the meaning of Section 304(c) of
23 this Act, an amount included in such total as interest
24 income from a loan or loans made by such taxpayer to a
25 borrower, to the extent that such a loan is secured by
26 property which is eligible for the High Impact Business

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

20 (N) Two times any contribution made during the
21 taxable year to a designated zone organization to the
22 extent that the contribution (i) qualifies as a
23 charitable contribution under subsection (c) of
24 Section 170 of the Internal Revenue Code and (ii) must,
25 by its terms, be used for a project approved by the
26 Department of Commerce and Economic Opportunity under

1 Section 11 of the Illinois Enterprise Zone Act or under
2 Section 10-10 of the River Edge Redevelopment Zone Act.
3 This subparagraph (N) is exempt from the provisions of
4 Section 250;

5 (O) An amount equal to: (i) 85% for taxable years
6 ending on or before December 31, 1992, or, a percentage
7 equal to the percentage allowable under Section
8 243(a)(1) of the Internal Revenue Code of 1986 for
9 taxable years ending after December 31, 1992, of the
10 amount by which dividends included in taxable income
11 and received from a corporation that is not created or
12 organized under the laws of the United States or any
13 state or political subdivision thereof, including, for
14 taxable years ending on or after December 31, 1988,
15 dividends received or deemed received or paid or deemed
16 paid under Sections 951 through 965 ~~964~~ of the Internal
17 Revenue Code, exceed the amount of the modification
18 provided under subparagraph (G) of paragraph (2) of
19 this subsection (b) which is related to such dividends,
20 and including, for taxable years ending on or after
21 December 31, 2008, dividends received from a captive
22 real estate investment trust; plus (ii) 100% of the
23 amount by which dividends, included in taxable income
24 and received, including, for taxable years ending on or
25 after December 31, 1988, dividends received or deemed
26 received or paid or deemed paid under Sections 951

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section 250;

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

7 If the taxpayer continues to own property through
8 the last day of the last tax year for which the
9 taxpayer may claim a depreciation deduction for
10 federal income tax purposes and 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 The taxpayer is allowed to take the deduction under
15 this subparagraph only once with respect to any one
16 piece of property.

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

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

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

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

1 who would be a member of the same unitary business
2 group but for the fact that the person is prohibited
3 under Section 1501(a)(27) from being included in the
4 unitary business group because he or she is ordinarily
5 required to apportion business income under different
6 subsections of Section 304, but not to exceed the
7 addition modification required to be made for the same
8 taxable year under Section 203(b)(2)(E-12) for
9 interest paid, accrued, or incurred, directly or
10 indirectly, to the same person. This subparagraph (W)
11 is exempt from the provisions of Section 250; ~~and~~

12 (X) An amount equal to the income from intangible
13 property taken into account for the taxable year (net
14 of the 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(b)(2)(E-13) for
3 intangible expenses and costs paid, accrued, or
4 incurred, directly or indirectly, to the same foreign
5 person. This subparagraph (X) is exempt from the
6 provisions of Section 250; and

7 (Y) For taxable years ending on or after December
8 31, 2011, in the case of a taxpayer who was required to
9 add back any insurance premiums under Section
10 203(b)(2)(E-14), such taxpayer may elect to subtract
11 that part of a reimbursement received from the
12 insurance company equal to the amount of the expense or
13 loss (including expenses incurred by the insurance
14 company) that would have been taken into account as a
15 deduction for federal income tax purposes if the
16 expense or loss had been uninsured. If a taxpayer makes
17 the election provided for by this subparagraph (Y), the
18 insurer to which the premiums were paid must add back
19 to income the amount subtracted by the taxpayer
20 pursuant to this subparagraph (Y). This subparagraph
21 (Y) is exempt from the provisions of Section 250; and

22 (Z) The difference between the nondeductible
23 controlled foreign corporation dividends under Section
24 965(e)(3) of the Internal Revenue Code over the taxable
25 income of the taxpayer, computed without regard to
26 Section 965(e)(2)(A) of the Internal Revenue Code, and

1 without regard to any net operating loss deduction.

2 This subparagraph (Z) is exempt from the provisions of
3 Section 250.

4 (3) Special rule. For purposes of paragraph (2) (A),
5 "gross income" in the case of a life insurance company, for
6 tax years ending on and after December 31, 1994, and prior
7 to December 31, 2011, shall mean the gross investment
8 income for the taxable year and, for tax years ending on or
9 after December 31, 2011, shall mean all amounts included in
10 life insurance gross income under Section 803(a)(3) of the
11 Internal Revenue Code.

12 (c) Trusts and estates.

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

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

20 (A) An amount equal to all amounts paid or accrued
21 to the taxpayer as interest or dividends during the
22 taxable year to the extent excluded from gross income
23 in the computation of taxable income;

24 (B) In the case of (i) an estate, \$600; (ii) a
25 trust which, under its governing instrument, is

1 required to distribute all of its income currently,
2 \$300; and (iii) any other trust, \$100, but in each such
3 case, only to the extent such amount was deducted in
4 the computation of taxable income;

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

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

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

22 (i) the addition modification relating to the
23 net operating loss carried back or forward to the
24 taxable year from any taxable year ending prior to
25 December 31, 1986 shall be reduced by the amount of
26 addition modification under this subparagraph (E)

1 which related to that net operating loss and which
2 was taken into account in calculating the base
3 income of an earlier taxable year, and

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

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

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

22 (G) An amount equal to the amount of the capital
23 gain deduction allowable under the Internal Revenue
24 Code, to the extent deducted from gross income in the
25 computation of taxable income;

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

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

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

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

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

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

1 (G-12) An amount equal to the amount otherwise
2 allowed as a deduction in computing base income for
3 interest paid, accrued, or incurred, directly or
4 indirectly, (i) for taxable years ending on or after
5 December 31, 2004, to a foreign person who would be a
6 member of the same unitary business group but for the
7 fact that the foreign person's business activity
8 outside the United States is 80% or more of the foreign
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. The addition modification
17 required by this subparagraph shall be reduced to the
18 extent that dividends were included in base income of
19 the unitary group for the same taxable year and
20 received by the taxpayer or by a member of the
21 taxpayer's unitary business group (including amounts
22 included in gross income pursuant to Sections 951
23 through 964 of the Internal Revenue Code and amounts
24 included in gross income under Section 78 of the
25 Internal Revenue Code) with respect to the stock of the
26 same person to whom the interest was paid, accrued, or

1 incurred.

2 This paragraph shall not apply to the following:

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

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

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

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

24 (iii) the taxpayer can establish, based on
25 clear and convincing evidence, that the interest
26 paid, accrued, or incurred relates to a contract or

1 agreement entered into at arm's-length rates and
2 terms and the principal purpose for the payment is
3 not federal or Illinois tax avoidance; or

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

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

20 (G-13) An amount equal to the amount of intangible
21 expenses and costs otherwise allowed as a deduction in
22 computing base income, and that were paid, accrued, or
23 incurred, directly or indirectly, (i) for taxable
24 years ending on or after December 31, 2004, to a
25 foreign person who would be a member of the same
26 unitary business group but for the fact that the

1 foreign person's business activity outside the United
2 States is 80% or more of that person's total business
3 activity and (ii) for taxable years ending on or after
4 December 31, 2008, to a person who would be a member of
5 the same unitary business group but for the fact that
6 the person is prohibited under Section 1501(a)(27)
7 from being included in the unitary business group
8 because he or she is ordinarily required to apportion
9 business income under different subsections of Section
10 304. The addition modification required by this
11 subparagraph shall be reduced to the extent that
12 dividends were included in base income of the unitary
13 group for the same taxable year and received by the
14 taxpayer or by a member of the taxpayer's unitary
15 business group (including amounts included in gross
16 income pursuant to Sections 951 through 964 of the
17 Internal Revenue Code and amounts included in gross
18 income under Section 78 of the Internal Revenue Code)
19 with respect to the stock of the same person to whom
20 the intangible expenses and costs were directly or
21 indirectly paid, incurred, or accrued. The preceding
22 sentence shall not apply to the extent that the same
23 dividends caused a reduction to the addition
24 modification required under Section 203(c)(2)(G-12) of
25 this Act. As used in this subparagraph, the term
26 "intangible expenses and costs" includes: (1)

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

13 This paragraph shall not apply to the following:

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

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

26 (a) the person during the same taxable

1 year paid, accrued, or incurred, the
2 intangible expense or cost to a person that is
3 not a related member, and

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

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

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

1 under Section 404 of this Act;

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

1 Section 203(c) (2) (G-13) of this Act;

2 (G-15) An amount equal to the credit allowable to
3 the taxpayer under Section 218(a) of this Act,
4 determined without regard to Section 218(c) of this
5 Act;

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

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

19 (I) The valuation limitation amount;

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

23 (K) An amount equal to all amounts included in
24 taxable income as modified by subparagraphs (A), (B),
25 (C), (D), (E), (F) and (G) which are exempt from
26 taxation by this State either by reason of its statutes

1 or Constitution or by reason of the Constitution,
2 treaties or statutes of the United States; provided
3 that, in the case of any statute of this State that
4 exempts income derived from bonds or other obligations
5 from the tax imposed under this Act, the amount
6 exempted shall be the interest net of bond premium
7 amortization;

8 (L) With the exception of any amounts subtracted
9 under subparagraph (K), an amount equal to the sum of
10 all amounts disallowed as deductions by (i) Sections
11 171(a) (2) and 265(a) (2) of the Internal Revenue Code,~~7~~
12 ~~as now or hereafter amended~~, and all amounts of
13 expenses allocable to interest and disallowed as
14 deductions by Section 265(1) of the Internal Revenue
15 Code ~~of 1954, as now or hereafter amended~~; and (ii) for
16 taxable years ending on or after August 13, 1999,
17 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
18 the Internal Revenue Code, plus, (iii) for taxable
19 years ending on or after December 31, 2011, Section
20 45G(e) (3) of the Internal Revenue Code and any amount
21 included in gross income under Section 87 of the
22 Internal Revenue Code; the provisions of this
23 subparagraph are exempt from the provisions of Section
24 250;

25 (M) An amount equal to those dividends included in
26 such total which were paid by a corporation which

1 conducts business operations in an Enterprise Zone or
2 zones created under the Illinois Enterprise Zone Act or
3 a River Edge Redevelopment Zone or zones created under
4 the River Edge Redevelopment Zone Act and conducts
5 substantially all of its operations in an Enterprise
6 Zone or Zones or a River Edge Redevelopment Zone or
7 zones. This subparagraph (M) is exempt from the
8 provisions of Section 250;

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

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

21 (P) An amount equal to the amount of the deduction
22 used to compute the federal income tax credit for
23 restoration of substantial amounts held under claim of
24 right for the taxable year pursuant to Section 1341 of
25 the Internal Revenue Code ~~of 1986~~;

26 (Q) For taxable year 1999 and thereafter, an amount

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

1 victim. The amount of and the eligibility for any
2 public assistance, benefit, or similar entitlement is
3 not affected by the inclusion of items (i) and (ii) of
4 this paragraph in gross income for federal income tax
5 purposes. This paragraph is exempt from the provisions
6 of Section 250;

7 (R) 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 (R) is exempt from the provisions of
16 Section 250;

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

8 (T) The amount of (i) any interest income (net of
9 the deductions allocable thereto) taken into account
10 for the taxable year with respect to a transaction with
11 a taxpayer that is required to make an addition
12 modification with respect to such transaction under
13 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
14 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
15 the amount of such addition modification and (ii) any
16 income from intangible property (net of the deductions
17 allocable thereto) taken into account for the taxable
18 year with respect to a transaction with a taxpayer that
19 is required to make an addition modification with
20 respect to such transaction under Section
21 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
22 203(d)(2)(D-8), but not to exceed the amount of such
23 addition modification. This subparagraph (T) is exempt
24 from the provisions of Section 250;

25 (U) An amount equal to the interest income taken
26 into account for the taxable year (net of the

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

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

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

14 (W) in the case of an estate, an amount equal to
15 all amounts included in such total pursuant to the
16 provisions of Section 111 of the Internal Revenue Code
17 as a recovery of items previously deducted by the
18 decendent from adjusted gross income in the computation
19 of taxable income. This subparagraph (W) is exempt from
20 Section 250;

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

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

1 31, 2011, in the case of a taxpayer who was required to
2 add back any insurance premiums under Section
3 203(c)(2)(G-14), such taxpayer may elect to subtract
4 that part of a reimbursement received from the
5 insurance company equal to the amount of the expense or
6 loss (including expenses incurred by the insurance
7 company) that would have been taken into account as a
8 deduction for federal income tax purposes if the
9 expense or loss had been uninsured. If a taxpayer makes
10 the election provided for by this subparagraph (Y), the
11 insurer to which the premiums were paid must add back
12 to income the amount subtracted by the taxpayer
13 pursuant to this subparagraph (Y). This subparagraph
14 (Y) is exempt from the provisions of Section 250.

15 (3) Limitation. The amount of any modification
16 otherwise required under this subsection shall, under
17 regulations prescribed by the Department, be adjusted by
18 any amounts included therein which were properly paid,
19 credited, or required to be distributed, or permanently set
20 aside for charitable purposes pursuant to Internal Revenue
21 Code Section 642(c) during the taxable year.

22 (d) Partnerships.

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

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

4 (A) An amount equal to all amounts paid or accrued
5 to the taxpayer as interest or dividends during the
6 taxable year to the extent excluded from gross income
7 in the computation of taxable income;

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

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

14 (D) An amount equal to the amount of the capital
15 gain deduction allowable under the Internal Revenue
16 Code, to the extent deducted from gross income in the
17 computation of taxable income;

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

23 (D-6) If the taxpayer sells, transfers, abandons,
24 or otherwise disposes of property for which the
25 taxpayer was required in any taxable year to make an
26 addition modification under subparagraph (D-5), then

1 an amount equal to the aggregate amount of the
2 deductions taken in all taxable years under
3 subparagraph (O) with respect to that property.

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

11 The taxpayer is required to make the addition
12 modification under this subparagraph only once with
13 respect to any one piece of property;

14 (D-7) An amount equal to the amount otherwise
15 allowed as a deduction in computing base income for
16 interest paid, accrued, or incurred, directly or
17 indirectly, (i) for taxable years ending on or after
18 December 31, 2004, to a foreign person who would be a
19 member of the same unitary business group but for the
20 fact the foreign person's business activity outside
21 the United States is 80% or more of the foreign
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. The addition modification
4 required by this subparagraph shall be reduced to the
5 extent that dividends were included in base income of
6 the unitary group for the same taxable year and
7 received by the taxpayer or by a member of the
8 taxpayer's unitary business group (including amounts
9 included in gross income pursuant to Sections 951
10 through 964 of the Internal Revenue Code and amounts
11 included in gross income under Section 78 of the
12 Internal Revenue Code) with respect to the stock of the
13 same person to whom the interest was paid, accrued, or
14 incurred.

15 This paragraph shall not apply to the following:

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

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

1 (a) the person, during the same taxable
2 year, paid, accrued, or incurred, the interest
3 to a person that is not a related member, and

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

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

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

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

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

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

1 taxpayer or by a member of the taxpayer's unitary
2 business group (including amounts included in gross
3 income pursuant to Sections 951 through 964 of the
4 Internal Revenue Code and amounts included in gross
5 income under Section 78 of the Internal Revenue Code)
6 with respect to the stock of the same person to whom
7 the intangible expenses and costs were directly or
8 indirectly paid, incurred or accrued. The preceding
9 sentence shall not apply to the extent that the same
10 dividends caused a reduction to the addition
11 modification required under Section 203(d)(2)(D-7) of
12 this Act. As used in this subparagraph, the term
13 "intangible expenses and costs" includes (1) expenses,
14 losses, and costs for, or related to, the direct or
15 indirect acquisition, use, maintenance or management,
16 ownership, sale, exchange, or any other disposition of
17 intangible property; (2) losses incurred, directly or
18 indirectly, from factoring transactions or discounting
19 transactions; (3) royalty, patent, technical, and
20 copyright fees; (4) licensing fees; and (5) other
21 similar expenses and costs. For purposes of this
22 subparagraph, "intangible property" includes patents,
23 patent applications, trade names, trademarks, service
24 marks, copyrights, mask works, trade secrets, and
25 similar types of intangible assets;

26 This paragraph shall not apply to the following:

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

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

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

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

24 (iii) any item of intangible expense or cost
25 paid, accrued, or incurred, directly or
26 indirectly, from a transaction with a person if the

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

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

15 (D-9) For taxable years ending on or after December
16 31, 2008, an amount equal to the amount of insurance
17 premium expenses and costs otherwise allowed as a
18 deduction in computing base income, and that were paid,
19 accrued, or incurred, directly or indirectly, to a
20 person who would be a member of the same unitary
21 business group but for the fact that the person is
22 prohibited under Section 1501(a)(27) from being
23 included in the unitary business group because he or
24 she is ordinarily required to apportion business
25 income under different subsections of Section 304. The
26 addition modification required by this subparagraph

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

15 (D-10) An amount equal to the credit allowable to
16 the taxpayer under Section 218(a) of this Act,
17 determined without regard to Section 218(c) of this
18 Act;

19 and by deducting from the total so obtained the following
20 amounts:

21 (E) The valuation limitation amount;

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

25 (G) An amount equal to all amounts included in
26 taxable income as modified by subparagraphs (A), (B),

1 (C) and (D) which are exempt from taxation by this
2 State either by reason of its statutes or Constitution
3 or by reason of the Constitution, treaties or statutes
4 of the United States; provided that, in the case of any
5 statute of this State that exempts income derived from
6 bonds or other obligations from the tax imposed under
7 this Act, the amount exempted shall be the interest net
8 of bond premium amortization;

9 (H) Any income of the partnership which
10 constitutes personal service income as defined in
11 Section 1348 (b) (1) of the Internal Revenue Code (as
12 in effect December 31, 1981) or a reasonable allowance
13 for compensation paid or accrued for services rendered
14 by partners to the partnership, whichever is greater;
15 this subparagraph (H) is exempt from the provisions of
16 Section 250;

17 (I) An amount equal to all amounts of income
18 distributable to an entity subject to the Personal
19 Property Tax Replacement Income Tax imposed by
20 subsections (c) and (d) of Section 201 of this Act
21 including amounts distributable to organizations
22 exempt from federal income tax by reason of Section
23 501(a) of the Internal Revenue Code; this subparagraph
24 (I) is exempt from the provisions of Section 250;

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

1 all amounts disallowed as deductions by (i) Sections
2 171(a) (2), and 265(2) of the Internal Revenue Code ~~of~~
3 ~~1954, as now or hereafter amended,~~ and all amounts of
4 expenses allocable to interest and disallowed as
5 deductions by Section 265(1) of the Internal Revenue
6 Code, ~~as now or hereafter amended;~~ and (ii) for taxable
7 years ending on or after August 13, 1999, Sections
8 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
9 Internal Revenue Code, plus, (iii) for taxable years
10 ending on or after December 31, 2011, Section 45G(e) (3)
11 of the Internal Revenue Code and any amount included in
12 gross income under Section 87 of the Internal Revenue
13 Code; the provisions of this subparagraph are exempt
14 from the provisions of Section 250;

15 (K) 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,
19 enacted by the 82nd General Assembly, or a River Edge
20 Redevelopment Zone or zones created under the River
21 Edge Redevelopment Zone Act and conducts substantially
22 all of its operations in an Enterprise Zone or Zones or
23 from a River Edge Redevelopment Zone or zones. This
24 subparagraph (K) is exempt from the provisions of
25 Section 250;

26 (L) An amount equal to any contribution made to a

1 job training project established pursuant to the Real
2 Property Tax Increment Allocation Redevelopment Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (R) An amount equal to the interest income taken
10 into account for the taxable year (net of the
11 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(d)(2)(D-7) for interest
26 paid, accrued, or incurred, directly or indirectly, to

1 the same person. This subparagraph (R) is exempt from
2 Section 250; ~~and~~

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

23 (T) For taxable years ending on or after December
24 31, 2011, in the case of a taxpayer who was required to
25 add back any insurance premiums under Section
26 203(d)(2)(D-9), such taxpayer may elect to subtract

1 that part of a reimbursement received from the
2 insurance company equal to the amount of the expense or
3 loss (including expenses incurred by the insurance
4 company) that would have been taken into account as a
5 deduction for federal income tax purposes if the
6 expense or loss had been uninsured. If a taxpayer makes
7 the election provided for by this subparagraph (T), the
8 insurer to which the premiums were paid must add back
9 to income the amount subtracted by the taxpayer
10 pursuant to this subparagraph (T). This subparagraph
11 (T) is exempt from the provisions of Section 250.

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

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

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

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

23 (A) Certain life insurance companies. In the case
24 of a life insurance company subject to the tax imposed
25 by Section 801 of the Internal Revenue Code, life
26 insurance company taxable income, plus the amount of

1 distribution from pre-1984 policyholder surplus
2 accounts as calculated under Section 815a of the
3 Internal Revenue Code;

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

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

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

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

1 Code had been in effect for all such years;

2 (F) Cooperatives. In the case of a cooperative
3 corporation or association, the taxable income of such
4 organization determined in accordance with the
5 provisions of Section 1381 through 1388 of the Internal
6 Revenue Code, but without regard to the prohibition
7 against offsetting losses from patronage activities
8 against income from nonpatronage activities; except
9 that a cooperative corporation or association may make
10 an election to follow its federal income tax treatment
11 of patronage losses and nonpatronage losses. In the
12 event such election is made, such losses shall be
13 computed and carried over in a manner consistent with
14 subsection (a) of Section 207 of this Act and
15 apportioned by the apportionment factor reported by
16 the cooperative on its Illinois income tax return filed
17 for the taxable year in which the losses are incurred.
18 The election shall be effective for all taxable years
19 with original returns due on or after the date of the
20 election. In addition, the cooperative may file an
21 amended return or returns, as allowed under this Act,
22 to provide that the election shall be effective for
23 losses incurred or carried forward for taxable years
24 occurring prior to the date of the election. Once made,
25 the election may only be revoked upon approval of the
26 Director. The Department shall adopt rules setting

1 forth requirements for documenting the elections and
2 any resulting Illinois net loss and the standards to be
3 used by the Director in evaluating requests to revoke
4 elections. Public Act 96-932 ~~This amendatory Act of the~~
5 ~~96th General Assembly~~ is declaratory of existing law;

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

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

1 but which would be taken into account by an individual
2 in calculating his taxable income.

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

20 (f) Valuation limitation amount.

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

24 (A) The sum of the pre-August 1, 1969 appreciation
25 amounts (to the extent consisting of gain reportable

1 under the provisions of Section 1245 or 1250 of the
2 Internal Revenue Code) for all property in respect of
3 which such gain was reported for the taxable year; plus

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

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

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

24 (B) If the fair market value of property referred
25 to in paragraph (1) was not readily ascertainable on
26 August 1, 1969, the pre-August 1, 1969 appreciation

1 amount for such property is that amount which bears the
2 same ratio to the total gain reported in respect of the
3 property for federal income tax purposes for the
4 taxable year, as the number of full calendar months in
5 that part of the taxpayer's holding period for the
6 property ending July 31, 1969 bears to the number of
7 full calendar months in the taxpayer's entire holding
8 period for the property.

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

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

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

24 (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,

1 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
2 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09;
3 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff.
4 8-14-09; 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935,
5 eff. 6-21-10; 96-1214, eff. 7-22-10; revised 9-16-10.)

6 (35 ILCS 5/204) (from Ch. 120, par. 2-204)

7 Sec. 204. Standard Exemption.

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

15 (b) Basic amount. For the purpose of subsection (a) of this
16 Section, except as provided by subsection (a) of Section 205
17 and in this subsection, each taxpayer shall be allowed a basic
18 amount of \$1000, except that for corporations the basic amount
19 shall be zero for tax years ending on or after December 31,
20 2003, and for individuals the basic amount shall be:

21 (1) for taxable years ending on or after December 31,
22 1998 and prior to December 31, 1999, \$1,300;

23 (2) for taxable years ending on or after December 31,
24 1999 and prior to December 31, 2000, \$1,650;

25 (3) for taxable years ending on or after December 31,

1 2000, \$2,000.

2 For taxable years ending on or after December 31, 1992, a
3 taxpayer whose Illinois base income exceeds the basic amount
4 and who is claimed as a dependent on another person's tax
5 return under the Internal Revenue Code ~~of 1986~~ shall not be
6 allowed any basic amount under this subsection.

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

14 (d) Additional exemptions for an individual taxpayer and
15 his or her spouse. In the case of an individual taxpayer and
16 his or her spouse, he or she shall each be allowed additional
17 exemptions as follows:

18 (1) Additional exemption for taxpayer or spouse 65
19 years of age or older.

20 (A) For taxpayer. An additional exemption of
21 \$1,000 for the taxpayer if he or she has attained the
22 age of 65 before the end of the taxable year.

23 (B) For spouse when a joint return is not filed. An
24 additional exemption of \$1,000 for the spouse of the
25 taxpayer if a joint return is not made by the taxpayer
26 and his spouse, and if the spouse has attained the age

1 of 65 before the end of such taxable year, and, for the
2 calendar year in which the taxable year of the taxpayer
3 begins, has no gross income and is not the dependent of
4 another taxpayer.

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

7 (A) For taxpayer. An additional exemption of
8 \$1,000 for the taxpayer if he or she is blind at the
9 end of the taxable year.

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

22 (C) Blindness defined. For purposes of this
23 subsection, an individual is blind only if his or her
24 central visual acuity does not exceed 20/200 in the
25 better eye with correcting lenses, or if his or her
26 visual acuity is greater than 20/200 but is accompanied

1 by a limitation in the fields of vision such that the
2 widest diameter of the visual fields subtends an angle
3 no greater than 20 degrees.

4 (e) Cross reference. See Article 3 for the manner of
5 determining base income allocable to this State.

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

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

9 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

10 Sec. 205. Exempt organizations.

11 (a) Charitable, etc. organizations. The base income of an
12 organization which is exempt from the federal income tax by
13 reason ~~of Section 501(a)~~ of the Internal Revenue Code shall not
14 be determined under section 203 of this Act, but shall be its
15 unrelated business taxable income as determined under section
16 512 of the Internal Revenue Code, without any deduction for the
17 tax imposed by this Act. The standard exemption provided by
18 section 204 of this Act shall not be allowed in determining the
19 net income of an organization to which this subsection applies.

20 (b) Partnerships. A partnership as such shall not be
21 subject to the tax imposed by subsection 201 (a) and (b) of
22 this Act, but shall be subject to the replacement tax imposed
23 by subsection 201 (c) and (d) of this Act and shall compute its
24 base income as described in subsection (d) of Section 203 of
25 this Act. For taxable years ending on or after December 31,

1 2004, an investment partnership, as defined in Section
2 1501(a)(11.5) of this Act, shall not be subject to the tax
3 imposed by subsections (c) and (d) of Section 201 of this Act.
4 A partnership shall file such returns and other information at
5 such time and in such manner as may be required under Article 5
6 of this Act. The partners in a partnership shall be liable for
7 the replacement tax imposed by subsection 201 (c) and (d) of
8 this Act on such partnership, to the extent such tax is not
9 paid by the partnership, as provided under the laws of Illinois
10 governing the liability of partners for the obligations of a
11 partnership. Persons carrying on business as partners shall be
12 liable for the tax imposed by subsection 201 (a) and (b) of
13 this Act only in their separate or individual capacities.

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

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

25 (e) Certain trusts. A common trust fund described in
26 Section 584 of the Internal Revenue Code, and any other trust

1 to the extent that the grantor is treated as the owner thereof
2 under sections 671 through 678 of the Internal Revenue Code
3 shall not be subject to the tax imposed by this Act.

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

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

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

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

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

22 (35 ILCS 5/207) (from Ch. 120, par. 2-207)

23 Sec. 207. Net Losses.

24 (a) If after applying all of the (i) modifications provided
25 for in paragraph (2) of Section 203(b), paragraph (2) of

1 Section 203(c) and paragraph (2) of Section 203(d) and (ii) the
2 allocation and apportionment provisions of Article 3 of this
3 Act and subsection (c) of this Section, the taxpayer's net
4 income results in a loss;

5 (1) for any taxable year ending prior to December 31,
6 1999, such loss shall be allowed as a carryover or
7 carryback deduction in the manner allowed under Section 172
8 of the Internal Revenue Code;

9 (2) for any taxable year ending on or after December
10 31, 1999 and prior to December 31, 2003, such loss shall be
11 allowed as a carryback to each of the 2 taxable years
12 preceding the taxable year of such loss and shall be a net
13 operating loss carryover to each of the 20 taxable years
14 following the taxable year of such loss; and

15 (3) for any taxable year ending on or after December
16 31, 2003, such loss shall be allowed as a net operating
17 loss carryover to each of the 12 taxable years following
18 the taxable year of such loss, except as provided in
19 subsection (d).

20 (a-5) Election to relinquish carryback and order of
21 application of losses.

22 (A) For losses incurred in tax years ending prior
23 to December 31, 2003, the taxpayer may elect to
24 relinquish the entire carryback period with respect to
25 such loss. Such election shall be made in the form and
26 manner prescribed by the Department and shall be made

1 by the due date (including extensions of time) for
2 filing the taxpayer's return for the taxable year in
3 which such loss is incurred, and such election, once
4 made, shall be irrevocable.

5 (B) The entire amount of such loss shall be carried
6 to the earliest taxable year to which such loss may be
7 carried. The amount of such loss which shall be carried
8 to each of the other taxable years shall be the excess,
9 if any, of the amount of such loss over the sum of the
10 deductions for carryback or carryover of such loss
11 allowable for each of the prior taxable years to which
12 such loss may be carried.

13 (b) Any loss determined under subsection (a) of this
14 Section must be carried back or carried forward in the same
15 manner for purposes of subsections (a) and (b) of Section 201
16 of this Act as for purposes of subsections (c) and (d) of
17 Section 201 of this Act.

18 (c) Notwithstanding any other provision of this Act, for
19 each taxable year ending on or after December 31, 2008, for
20 purposes of computing the loss for the taxable year under
21 subsection (a) of this Section and the deduction taken into
22 account for the taxable year for a net operating loss carryover
23 under paragraphs (1), (2), and (3) of subsection (a) of this
24 Section, the loss and net operating loss carryover shall be
25 reduced in an amount equal to the reduction to the net
26 operating loss and net operating loss carryover to the taxable

1 year, respectively, required under Section 108(b)(2)(A) of the
2 Internal Revenue Code, multiplied by a fraction, the numerator
3 of which is the amount of discharge of indebtedness income that
4 is excluded from gross income for the taxable year (but only if
5 the taxable year ends on or after December 31, 2008) under
6 Section 108(a) of the Internal Revenue Code and that would have
7 been allocated and apportioned to this State under Article 3 of
8 this Act but for that exclusion, and the denominator of which
9 is the total amount of discharge of indebtedness income
10 excluded from gross income under Section 108(a) of the Internal
11 Revenue Code for the taxable year. The reduction required under
12 this subsection (c) shall be made after the determination of
13 Illinois net income for the taxable year in which the
14 indebtedness is discharged.

15 (d) In the case of a corporation (other than a Subchapter S
16 corporation), no carryover deduction shall be allowed under
17 this Section for any taxable year ending after December 31,
18 2010 and prior to December 31, 2014; provided that, for
19 purposes of determining the taxable years to which a net loss
20 may be carried under subsection (a) of this Section, no taxable
21 year for which a deduction is disallowed under this subsection
22 shall be counted.

23 (e) In the case of a residual interest holder in a real
24 estate mortgage investment conduit subject to Section 860E of
25 the Internal Revenue Code, the net loss in subsection (a) shall
26 be equal to:

1 (1) the amount computed under subsection (a), without
2 regard to this subsection (e), or if that amount is
3 positive, zero;

4 (2) minus an amount equal to the amount computed under
5 subsection (a), without regard to this subsection (e),
6 minus the amount that would be computed under subsection
7 (a) if the taxpayer's federal taxable income were computed
8 without regard to Section 860E of the Internal Revenue Code
9 and without regard to this subsection (e).

10 The modification in this subsection (e) is exempt from the
11 provisions of Section 250.

12 (Source: P.A. 95-233, eff. 8-16-07; 96-1496, eff. 1-13-11.)

13 (35 ILCS 5/214)

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

15 (a) Beginning with taxable years ending on or after
16 December 31, 2001 and until the taxable year ending on December
17 31, 2016, a taxpayer who makes a donation under Section 7.28 of
18 the Illinois Housing Development Act is entitled to a credit
19 against the tax imposed by subsections (a) and (b) of Section
20 201 in an amount equal to 50% of the value of the donation.
21 Partners, shareholders of subchapter S corporations, and
22 owners of limited liability companies (if the limited liability
23 company is treated as a partnership for purposes of federal and
24 State income taxation) are entitled to a credit under this
25 Section to be determined in accordance with the determination

1 of income and distributive share of income under Sections 702
2 and 703 and subchapter S of the Internal Revenue Code. Persons
3 or entities not subject to the tax imposed by subsections (a)
4 and (b) of Section 201 and who make a donation under Section
5 7.28 of the Illinois Housing Development Act are entitled to a
6 credit as described in this subsection and may transfer that
7 credit as described in subsection (c).

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

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

21 (d) A taxpayer claiming the credit provided by this Section
22 must maintain and record any information that the Department
23 may require by regulation regarding the project for which the
24 credit is claimed. When claiming the credit provided by this
25 Section, the taxpayer must provide information regarding the
26 taxpayer's donation to the project under the Illinois Housing

1 Development Act.

2 (Source: P.A. 96-1276, eff. 7-26-10.)

3 (35 ILCS 5/220)

4 Sec. 220. Angel investment credit.

5 (a) As used in this Section:

6 "Applicant" means a corporation, partnership, limited
7 liability company, or a natural person that makes an investment
8 in a qualified new business venture. The term "applicant" does
9 not include a corporation, partnership, limited liability
10 company, or a natural person who has a direct or indirect
11 ownership interest of at least 51% in the profits, capital, or
12 value of the investment or a related member.

13 "Claimant" means an ~~a~~ applicant certified by the Department
14 who files a claim for a credit under this Section.

15 "Department" means the Department of Commerce and Economic
16 Opportunity.

17 "Qualified new business venture" means a business that is
18 registered with the Department under this Section.

19 "Related member" means a person that, with respect to the
20 investment, is any one of the following:

21 (1) An individual, if the individual and the members of
22 the individual's family (as defined in Section 318 of the
23 Internal Revenue Code) own directly, indirectly,
24 beneficially, or constructively, in the aggregate, at
25 least 50% of the value of the outstanding profits, capital,

1 stock, or other ownership interest in the applicant.

2 (2) A partnership, estate, or trust and any partner or
3 beneficiary, if the partnership, estate, or trust and its
4 partners or beneficiaries own directly, indirectly,
5 beneficially, or constructively, in the aggregate, at
6 least 50% of the profits, capital, stock, or other
7 ownership interest in the applicant.

8 (3) A corporation, and any party related to the
9 corporation in a manner that would require an attribution
10 of stock from the corporation under the attribution rules
11 of Section 318 of the Internal Revenue Code, if the
12 applicant and any other related member own, in the
13 aggregate, directly, indirectly, beneficially, or
14 constructively, at least 50% of the value of the
15 corporation's outstanding stock.

16 (4) A corporation and any party related to that
17 corporation in a manner that would require an attribution
18 of stock from the corporation to the party or from the
19 party to the corporation under the attribution rules of
20 Section 318 of the Internal Revenue Code, if the
21 corporation and all such related parties own, in the
22 aggregate, at least 50% of the profits, capital, stock, or
23 other ownership interest in the applicant.

24 (5) A person to or from whom there is attribution of
25 stock ownership in accordance with Section 1563(e) of the
26 Internal Revenue Code, except that for purposes of

1 determining whether a person is a related member under this
2 paragraph, "20%" shall be substituted for "5%" whenever
3 "5%" appears in Section 1563(e) of the Internal Revenue
4 Code.

5 (b) For taxable years beginning after December 31, 2010,
6 and ending on or before December 31, 2016, subject to the
7 limitations provided in this Section, a claimant may claim, as
8 a credit against the tax imposed under subsections (a) and (b)
9 of Section 201 of this Act, an amount equal to 25% of the
10 claimant's investment made directly in a qualified new business
11 venture. The credit under this Section may not exceed the
12 taxpayer's Illinois income tax liability for the taxable year.
13 If the amount of the credit exceeds the tax liability for the
14 year, the excess may be carried forward and applied to the tax
15 liability of the 5 taxable years following the excess credit
16 year. The credit shall be applied to the earliest year for
17 which there is a tax liability. If there are credits from more
18 than one tax year that are available to offset a liability, the
19 earlier credit shall be applied first. In the case of a
20 partnership or Subchapter S Corporation, the credit is allowed
21 to the partners or shareholders in accordance with the
22 determination of income and distributive share of income under
23 Sections 702 and 704 and Subchapter S of the Internal Revenue
24 Code.

25 (c) The maximum amount of an applicant's investment that
26 may be used as the basis for a credit under this Section is

1 \$2,000,000 for each investment made directly in a qualified new
2 business venture.

3 (d) The Department shall implement a program to certify an
4 applicant for an angel investment credit. Upon satisfactory
5 review, the Department shall issue a tax credit certificate
6 stating the amount of the tax credit to which the applicant is
7 entitled. The Department shall annually certify that the
8 claimant's investment has been made and remains in the
9 qualified new business venture for no less than 3 years. If an
10 investment for which a claimant is allowed a credit under
11 subsection (b) is held by the claimant for less than 3 years,
12 or, if within that period of time the qualified new business
13 venture is moved from the State of Illinois, the claimant shall
14 pay to the Department of Revenue, in the manner prescribed by
15 the Department of Revenue, the amount of the credit that the
16 claimant received related to the investment.

17 (e) The Department shall implement a program to register
18 qualified new business ventures for purposes of this Section. A
19 business desiring registration shall submit an application to
20 the Department in each taxable year for which the business
21 desires registration. The Department may register the business
22 only if the business satisfies all of the following conditions:

- 23 (1) it has its headquarters in this State;
- 24 (2) at least 51% of the employees employed by the
25 business are employed in this State;
- 26 (3) it has the potential for increasing jobs in this

1 State, increasing capital investment in this State, or
2 both, and either of the following apply:

3 (A) it is principally engaged in innovation in any
4 of the following: manufacturing; biotechnology;
5 nanotechnology; communications; agricultural sciences;
6 clean energy creation or storage technology;
7 processing or assembling products, including medical
8 devices, pharmaceuticals, computer software, computer
9 hardware, semiconductors, other innovative technology
10 products, or other products that are produced using
11 manufacturing methods that are enabled by applying
12 proprietary technology; or providing services that are
13 enabled by applying proprietary technology; or

14 (B) it is undertaking pre-commercialization
15 activity related to proprietary technology that
16 includes conducting research, developing a new product
17 or business process, or developing a service that is
18 principally reliant on applying proprietary
19 technology;

20 (4) it is not principally engaged in real estate
21 development, insurance, banking, lending, lobbying,
22 political consulting, professional services provided by
23 attorneys, accountants, business consultants, physicians,
24 or health care consultants, wholesale or retail trade,
25 leisure, hospitality, transportation, or construction,
26 except construction of power production plants that derive

1 energy from a renewable energy resource, as defined in
2 Section 1 of the Illinois Power Agency Act;

3 (5) it has fewer than 100 employees;

4 (6) it has been in operation in Illinois for not more
5 than 10 consecutive years prior to the year of
6 certification; and

7 (7) it has received not more than (i) \$10,000,000 in
8 aggregate private equity investment in cash or (ii)
9 \$4,000,000 in investments that qualified for tax credits
10 under this Section.

11 (f) The Department, in consultation with the Department of
12 Revenue, shall adopt rules to administer this Section. The
13 aggregate amount of the tax credits that may be claimed under
14 this Section for investments made in qualified new business
15 ventures shall be limited at \$10,000,000 per calendar year.

16 (g) A claimant may not sell or otherwise transfer a credit
17 awarded under this Section to another person.

18 (h) On or before March 1 of each year, the Department shall
19 report to the Governor and to the General Assembly on the tax
20 credit certificates awarded under this Section for the prior
21 calendar year.

22 (1) This report must include, for each tax credit
23 certificate awarded:

24 (A) the name of the claimant and the amount of
25 credit awarded or allocated to that claimant;

26 (B) the name and address of the qualified new

1 business venture that received the investment giving
2 rise to the credit and the county in which the
3 qualified new business venture is located; and

4 (C) the date of approval by the Department of the
5 applications for the tax credit certificate.

6 (2) The report must also include:

7 (A) the total number of applicants and amount for
8 tax credit certificates awarded under this Section in
9 the prior calendar year;

10 (B) the total number of applications and amount for
11 which tax credit certificates were issued in the prior
12 calendar year; and

13 (C) the total tax credit certificates and amount
14 authorized under this Section for all calendar years.

15 (Source: P.A. 96-939, eff. 1-1-11.)

16 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

18 (a) In general. The business income of a person other than
19 a resident shall be allocated to this State if such person's
20 business income is derived solely from this State. If a person
21 other than a resident derives business income from this State
22 and one or more other states, then, for tax years ending on or
23 before December 30, 1998, and except as otherwise provided by
24 this Section, such person's business income shall be
25 apportioned to this State by multiplying the income by a

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

13 (1) Property factor.

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

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

1 (C) The average value of property shall be determined
2 by averaging the values at the beginning and ending of the
3 taxable year but the Director may require the averaging of
4 monthly values during the taxable year if reasonably
5 required to reflect properly the average value of the
6 person's property.

7 (2) Payroll factor.

8 (A) The payroll factor is a fraction, the numerator of
9 which is the total amount paid in this State during the
10 taxable year by the person for compensation, and the
11 denominator of which is the total compensation paid
12 everywhere during the taxable year.

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

14 (i) The individual's service is performed entirely
15 within this State;

16 (ii) The individual's service is performed both
17 within and without this State, but the service
18 performed without this State is incidental to the
19 individual's service performed within this State; or

20 (iii) Some of the service is performed within this
21 State and either the base of operations, or if there is
22 no base of operations, the place from which the service
23 is directed or controlled is within this State, or the
24 base of operations or the place from which the service
25 is directed or controlled is not in any state in which
26 some part of the service is performed, but the

1 individual's residence is in this State.

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

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

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

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

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

26 (2) The term "member of a professional

1 athletic team" includes those employees who are
2 active players, players on the disabled list, and
3 any other persons required to travel and who travel
4 with and perform services on behalf of a
5 professional athletic team on a regular basis.
6 This includes, but is not limited to, coaches,
7 managers, and trainers.

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

20 (A) Duty days shall also include days on
21 which a member of a professional athletic team
22 performs service for a team on a date that does
23 not fall within the foregoing period (e.g.,
24 participation in instructional leagues, the
25 "All Star Game", or promotional "caravans").
26 Performing a service for a professional

1 athletic team includes conducting training and
2 rehabilitation activities, when such
3 activities are conducted at team facilities.

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

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

23 (D) Days for which a member of a
24 professional athletic team is not compensated
25 and is not performing services for the team in
26 any manner, including days when such member of

1 a professional athletic team has been
2 suspended without pay and prohibited from
3 performing any services for the team, shall not
4 be treated as duty days.

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

15 (4) The term "total compensation for services
16 performed as a member of a professional athletic
17 team" means the total compensation received during
18 the taxable year for services performed:

19 (A) from the beginning of the official
20 pre-season training period through the last
21 game in which the team competes or is scheduled
22 to compete during that taxable year; and

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

1 This compensation shall include, but is not
2 limited to, salaries, wages, bonuses as described
3 in this subpart, and any other type of compensation
4 paid during the taxable year to a member of a
5 professional athletic team for services performed
6 in that year. This compensation does not include
7 strike benefits, severance pay, termination pay,
8 contract or option year buy-out payments,
9 expansion or relocation payments, or any other
10 payments not related to services performed for the
11 team.

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

1 salary and any other compensation, and the signing
2 bonus is nonrefundable.

3 (3) Sales factor.

4 (A) The sales factor is a fraction, the numerator of
5 which is the total sales of the person in this State during
6 the taxable year, and the denominator of which is the total
7 sales of the person everywhere during the taxable year.

8 (B) Sales of tangible personal property are in this
9 State if:

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

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

1 or purchaser is a person with 80% or more of total
2 business activity outside of the United States and the
3 property is purchased for resale.

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

6 (i) Gross receipts from the licensing, sale, or
7 other disposition of a patent, copyright, trademark,
8 or similar item of intangible personal property, other
9 than gross receipts governed by paragraph (B-7) of this
10 item (3), are in this State to the extent the item is
11 utilized in this State during the year the gross
12 receipts are included in gross income.

13 (ii) Place of utilization.

14 (I) A patent is utilized in a state to the
15 extent that it is employed in production,
16 fabrication, manufacturing, or other processing in
17 the state or to the extent that a patented product
18 is produced in the state. If a patent is utilized
19 in more than one state, the extent to which it is
20 utilized in any one state shall be a fraction equal
21 to the gross receipts of the licensee or purchaser
22 from sales or leases of items produced,
23 fabricated, manufactured, or processed within that
24 state using the patent and of patented items
25 produced within that state, divided by the total of
26 such gross receipts for all states in which the

1 patent is utilized.

2 (II) A copyright is utilized in a state to the
3 extent that printing or other publication
4 originates in the state. If a copyright is utilized
5 in more than one state, the extent to which it is
6 utilized in any one state shall be a fraction equal
7 to the gross receipts from sales or licenses of
8 materials printed or published in that state
9 divided by the total of such gross receipts for all
10 states in which the copyright is utilized.

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

15 (iii) If the state of utilization of an item of
16 property governed by this paragraph (B-1) cannot be
17 determined from the taxpayer's books and records or
18 from the books and records of any person related to the
19 taxpayer within the meaning of Section 267(b) of the
20 Internal Revenue Code, 26 U.S.C. 267, the gross
21 receipts attributable to that item shall be excluded
22 from both the numerator and the denominator of the
23 sales factor.

24 (B-2) Gross receipts from the license, sale, or other
25 disposition of patents, copyrights, trademarks, and
26 similar items of intangible personal property, other than

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

11 (B-5) For taxable years ending on or after December 31,
12 2008, except as provided in subsections (ii) through (vii),
13 receipts from the sale of telecommunications service or
14 mobile telecommunications service are in this State if the
15 customer's service address is in this State.

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

18 "Ancillary services" means services that are
19 associated with or incidental to the provision of
20 "telecommunications services", including but not
21 limited to "detailed telecommunications billing",
22 "directory assistance", "vertical service", and "voice
23 mail services".

24 "Air-to-Ground Radiotelephone service" means a
25 radio service, as that term is defined in 47 CFR 22.99,
26 in which common carriers are authorized to offer and

1 provide radio telecommunications service for hire to
2 subscribers in aircraft.

3 "Call-by-call Basis" means any method of charging
4 for telecommunications services where the price is
5 measured by individual calls.

6 "Communications Channel" means a physical or
7 virtual path of communications over which signals are
8 transmitted between or among customer channel
9 termination points.

10 "Conference bridging service" means an "ancillary
11 service" that links two or more participants of an
12 audio or video conference call and may include the
13 provision of a telephone number. "Conference bridging
14 service" does not include the "telecommunications
15 services" used to reach the conference bridge.

16 "Customer Channel Termination Point" means the
17 location where the customer either inputs or receives
18 the communications.

19 "Detailed telecommunications billing service"
20 means an "ancillary service" of separately stating
21 information pertaining to individual calls on a
22 customer's billing statement.

23 "Directory assistance" means an "ancillary
24 service" of providing telephone number information,
25 and/or address information.

26 "Home service provider" means the facilities based

1 carrier or reseller with which the customer contracts
2 for the provision of mobile telecommunications
3 services.

4 "Mobile telecommunications service" means
5 commercial mobile radio service, as defined in Section
6 20.3 of Title 47 of the Code of Federal Regulations as
7 in effect on June 1, 1999.

8 "Place of primary use" means the street address
9 representative of where the customer's use of the
10 telecommunications service primarily occurs, which
11 must be the residential street address or the primary
12 business street address of the customer. In the case of
13 mobile telecommunications services, "place of primary
14 use" must be within the licensed service area of the
15 home service provider.

16 "Post-paid telecommunication service" means the
17 telecommunications service obtained by making a
18 payment on a call-by-call basis either through the use
19 of a credit card or payment mechanism such as a bank
20 card, travel card, credit card, or debit card, or by
21 charge made to a telephone number which is not
22 associated with the origination or termination of the
23 telecommunications service. A post-paid calling
24 service includes telecommunications service, except a
25 prepaid wireless calling service, that would be a
26 prepaid calling service except it is not exclusively a

1 telecommunication service.

2 "Prepaid telecommunication service" means the
3 right to access exclusively telecommunications
4 services, which must be paid for in advance and which
5 enables the origination of calls using an access number
6 or authorization code, whether manually or
7 electronically dialed, and that is sold in
8 predetermined units or dollars of which the number
9 declines with use in a known amount.

10 "Prepaid Mobile telecommunication service" means a
11 telecommunications service that provides the right to
12 utilize mobile wireless service as well as other
13 non-telecommunication services, including but not
14 limited to ancillary services, which must be paid for
15 in advance that is sold in predetermined units or
16 dollars of which the number declines with use in a
17 known amount.

18 "Private communication service" means a
19 telecommunication service that entitles the customer
20 to exclusive or priority use of a communications
21 channel or group of channels between or among
22 termination points, regardless of the manner in which
23 such channel or channels are connected, and includes
24 switching capacity, extension lines, stations, and any
25 other associated services that are provided in
26 connection with the use of such channel or channels.

1 "Service address" means:

2 (a) The location of the telecommunications
3 equipment to which a customer's call is charged and
4 from which the call originates or terminates,
5 regardless of where the call is billed or paid;

6 (b) If the location in line (a) is not known,
7 service address means the origination point of the
8 signal of the telecommunications services first
9 identified by either the seller's
10 telecommunications system or in information
11 received by the seller from its service provider
12 where the system used to transport such signals is
13 not that of the seller; and

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

17 "Telecommunications service" means the electronic
18 transmission, conveyance, or routing of voice, data,
19 audio, video, or any other information or signals to a
20 point, or between or among points. The term
21 "telecommunications service" includes such
22 transmission, conveyance, or routing in which computer
23 processing applications are used to act on the form,
24 code or protocol of the content for purposes of
25 transmission, conveyance or routing without regard to
26 whether such service is referred to as voice over

1 Internet protocol services or is classified by the
2 Federal Communications Commission as enhanced or value
3 added. "Telecommunications service" does not include:

4 (a) Data processing and information services
5 that allow data to be generated, acquired, stored,
6 processed, or retrieved and delivered by an
7 electronic transmission to a purchaser when such
8 purchaser's primary purpose for the underlying
9 transaction is the processed data or information;

10 (b) Installation or maintenance of wiring or
11 equipment on a customer's premises;

12 (c) Tangible personal property;

13 (d) Advertising, including but not limited to
14 directory advertising.

15 (e) Billing and collection services provided
16 to third parties;

17 (f) Internet access service;

18 (g) Radio and television audio and video
19 programming services, regardless of the medium,
20 including the furnishing of transmission,
21 conveyance and routing of such services by the
22 programming service provider. Radio and television
23 audio and video programming services shall include
24 but not be limited to cable service as defined in
25 47 USC 522(6) and audio and video programming
26 services delivered by commercial mobile radio

1 service providers, as defined in 47 CFR 20.3;

2 (h) "Ancillary services"; or

3 (i) Digital products "delivered
4 electronically", including but not limited to
5 software, music, video, reading materials or ring
6 tones.

7 "Vertical service" means an "ancillary service"
8 that is offered in connection with one or more
9 "telecommunications services", which offers advanced
10 calling features that allow customers to identify
11 callers and to manage multiple calls and call
12 connections, including "conference bridging services".

13 "Voice mail service" means an "ancillary service"
14 that enables the customer to store, send or receive
15 recorded messages. "Voice mail service" does not
16 include any "vertical services" that the customer may
17 be required to have in order to utilize the "voice mail
18 service".

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

22 (a) The call both originates and terminates in
23 this State.

24 (b) The call either originates or terminates
25 in this State and the service address is located in
26 this State.

1 (iii) Receipts from the sale of postpaid
2 telecommunications service at retail are in this State
3 if the origination point of the telecommunication
4 signal, as first identified by the service provider's
5 telecommunication system or as identified by
6 information received by the seller from its service
7 provider if the system used to transport
8 telecommunication signals is not the seller's, is
9 located in this State.

10 (iv) Receipts from the sale of prepaid
11 telecommunications service or prepaid mobile
12 telecommunications service at retail are in this State
13 if the purchaser obtains the prepaid card or similar
14 means of conveyance at a location in this State.
15 Receipts from recharging a prepaid telecommunications
16 service or mobile telecommunications service is in
17 this State if the purchaser's billing information
18 indicates a location in this State.

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

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

23 (b) 100% of receipts from charges for the total
24 channel mileage between each channel termination
25 point in this State.

26 (c) 50% of the total receipts from charges for

1 service segments when those segments are between 2
2 customer channel termination points, 1 of which is
3 located in this State and the other is located
4 outside of this State, which segments are
5 separately charged.

6 (d) The receipts from charges for service
7 segments with a channel termination point located
8 in this State and in two or more other states, and
9 which segments are not separately billed, are in
10 this State based on a percentage determined by
11 dividing the number of customer channel
12 termination points in this State by the total
13 number of customer channel termination points.

14 (vi) Receipts from charges for ancillary services
15 for telecommunications service sold to customers at
16 retail are in this State if the customer's primary
17 place of use of telecommunications services associated
18 with those ancillary services is in this State. If the
19 seller of those ancillary services cannot determine
20 where the associated telecommunications are located,
21 then the ancillary services shall be based on the
22 location of the purchaser.

23 (vii) Receipts to access a carrier's network or
24 from the sale of telecommunication services or
25 ancillary services for resale are in this State as
26 follows:

1 (a) 100% of the receipts from access fees
2 attributable to intrastate telecommunications
3 service that both originates and terminates in
4 this State.

5 (b) 50% of the receipts from access fees
6 attributable to interstate telecommunications
7 service if the interstate call either originates
8 or terminates in this State.

9 (c) 100% of the receipts from interstate end
10 user access line charges, if the customer's
11 service address is in this State. As used in this
12 subdivision, "interstate end user access line
13 charges" includes, but is not limited to, the
14 surcharge approved by the federal communications
15 commission and levied pursuant to 47 CFR 69.

16 (d) Gross receipts from sales of
17 telecommunication services or from ancillary
18 services for telecommunications services sold to
19 other telecommunication service providers for
20 resale shall be sourced to this State using the
21 apportionment concepts used for non-resale
22 receipts of telecommunications services if the
23 information is readily available to make that
24 determination. If the information is not readily
25 available, then the taxpayer may use any other
26 reasonable and consistent method.

1 (B-7) For taxable years ending on or after December 31,
2 2008, receipts from the sale of broadcasting services are
3 in this State if the broadcasting services are received in
4 this State. For purposes of this paragraph (B-7), the
5 following terms have the following meanings:

6 "Advertising revenue" means consideration received
7 by the taxpayer in exchange for broadcasting services
8 or allowing the broadcasting of commercials or
9 announcements in connection with the broadcasting of
10 film or radio programming, from sponsorships of the
11 programming, or from product placements in the
12 programming.

13 "Audience factor" means the ratio that the
14 audience or subscribers located in this State of a
15 station, a network, or a cable system bears to the
16 total audience or total subscribers for that station,
17 network, or cable system. The audience factor for film
18 or radio programming shall be determined by reference
19 to the books and records of the taxpayer or by
20 reference to published rating statistics provided the
21 method used by the taxpayer is consistently used from
22 year to year for this purpose and fairly represents the
23 taxpayer's activity in this State.

24 "Broadcast" or "broadcasting" or "broadcasting
25 services" means the transmission or provision of film
26 or radio programming, whether through the public

1 airwaves, by cable, by direct or indirect satellite
2 transmission, or by any other means of communication,
3 either through a station, a network, or a cable system.

4 "Film" or "film programming" means the broadcast
5 on television of any and all performances, events, or
6 productions, including but not limited to news,
7 sporting events, plays, stories, or other literary,
8 commercial, educational, or artistic works, either
9 live or through the use of video tape, disc, or any
10 other type of format or medium. Each episode of a
11 series of films produced for television shall
12 constitute separate "film" notwithstanding that the
13 series relates to the same principal subject and is
14 produced during one or more tax periods.

15 "Radio" or "radio programming" means the broadcast
16 on radio of any and all performances, events, or
17 productions, including but not limited to news,
18 sporting events, plays, stories, or other literary,
19 commercial, educational, or artistic works, either
20 live or through the use of an audio tape, disc, or any
21 other format or medium. Each episode in a series of
22 radio programming produced for radio broadcast shall
23 constitute a separate "radio programming"
24 notwithstanding that the series relates to the same
25 principal subject and is produced during one or more
26 tax periods.

1 (i) In the case of advertising revenue from
2 broadcasting, the customer is the advertiser and
3 the service is received in this State if the
4 commercial domicile of the advertiser is in this
5 State.

6 (ii) In the case where film or radio
7 programming is broadcast by a station, a network,
8 or a cable system for a fee or other remuneration
9 received from the recipient of the broadcast, the
10 portion of the service that is received in this
11 State is measured by the portion of the recipients
12 of the broadcast located in this State.
13 Accordingly, the fee or other remuneration for
14 such service that is included in the Illinois
15 numerator of the sales factor is the total of those
16 fees or other remuneration received from
17 recipients in Illinois. For purposes of this
18 paragraph, a taxpayer may determine the location
19 of the recipients of its broadcast using the
20 address of the recipient shown in its contracts
21 with the recipient or using the billing address of
22 the recipient in the taxpayer's records.

23 (iii) In the case where film or radio
24 programming is broadcast by a station, a network,
25 or a cable system for a fee or other remuneration
26 from the person providing the programming, the

1 portion of the broadcast service that is received
2 by such station, network, or cable system in this
3 State is measured by the portion of recipients of
4 the broadcast located in this State. Accordingly,
5 the amount of revenue related to such an
6 arrangement that is included in the Illinois
7 numerator of the sales factor is the total fee or
8 other total remuneration from the person providing
9 the programming related to that broadcast
10 multiplied by the Illinois audience factor for
11 that broadcast.

12 (iv) In the case where film or radio
13 programming is provided by a taxpayer that is a
14 network or station to a customer for broadcast in
15 exchange for a fee or other remuneration from that
16 customer the broadcasting service is received at
17 the location of the office of the customer from
18 which the services were ordered in the regular
19 course of the customer's trade or business.
20 Accordingly, in such a case the revenue derived by
21 the taxpayer that is included in the taxpayer's
22 Illinois numerator of the sales factor is the
23 revenue from such customers who receive the
24 broadcasting service in Illinois.

25 (v) In the case where film or radio programming
26 is provided by a taxpayer that is not a network or

1 station to another person for broadcasting in
2 exchange for a fee or other remuneration from that
3 person, the broadcasting service is received at
4 the location of the office of the customer from
5 which the services were ordered in the regular
6 course of the customer's trade or business.
7 Accordingly, in such a case the revenue derived by
8 the taxpayer that is included in the taxpayer's
9 Illinois numerator of the sales factor is the
10 revenue from such customers who receive the
11 broadcasting service in Illinois.

12 (C) For taxable years ending before December 31, 2008,
13 sales, other than sales governed by paragraphs (B), (B-1),
14 and (B-2), are in this State if:

15 (i) The income-producing activity is performed in
16 this State; or

17 (ii) The income-producing activity is performed
18 both within and without this State and a greater
19 proportion of the income-producing activity is
20 performed within this State than without this State,
21 based on performance costs.

22 (C-5) For taxable years ending on or after December 31,
23 2008, sales, other than sales governed by paragraphs (B),
24 (B-1), (B-2), (B-5), and (B-7), are in this State if any of
25 the following criteria are met:

26 (i) Sales from the sale or lease of real property

1 are in this State if the property is located in this
2 State.

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

12 (iii) In the case of interest, net gains (but not
13 less than zero) and other items of income from
14 intangible personal property, the sale is in this State
15 if:

16 (a) in the case of a taxpayer who is a dealer
17 in the item of intangible personal property within
18 the meaning of Section 475 of the Internal Revenue
19 Code, the income or gain is received from a
20 customer in this State. For purposes of this
21 subparagraph, a customer is in this State if the
22 customer is an individual, trust or estate who is a
23 resident of this State and, for all other
24 customers, if the customer's commercial domicile
25 is in this State. Unless the dealer has actual
26 knowledge of the residence or commercial domicile

1 of a customer during a taxable year, the customer
2 shall be deemed to be a customer in this State if
3 the billing address of the customer, as shown in
4 the records of the dealer, is in this State; or

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

14 (iv) Sales of services are in this State if the
15 services are received in this State. For the purposes
16 of this section, gross receipts from the performance of
17 services provided to a corporation, partnership, or
18 trust may only be attributed to a state where that
19 corporation, partnership, or trust has a fixed place of
20 business. If the state where the services are received
21 is not readily determinable or is a state where the
22 corporation, partnership, or trust receiving the
23 service does not have a fixed place of business, the
24 services shall be deemed to be received at the location
25 of the office of the customer from which the services
26 were ordered in the regular course of the customer's

1 trade or business. If the ordering office cannot be
2 determined, the services shall be deemed to be received
3 at the office of the customer to which the services are
4 billed. If the taxpayer is not taxable in the state in
5 which the services are received, the sale must be
6 excluded from both the numerator and the denominator of
7 the sales factor. The Department shall adopt rules
8 prescribing where specific types of service are
9 received, including, but not limited to, publishing,
10 and utility service.

11 (D) For taxable years ending on or after December 31,
12 1995, the following items of income shall not be included
13 in the numerator or denominator of the sales factor:
14 dividends; amounts included under Section 78 of the
15 Internal Revenue Code; and Subpart F income as defined in
16 Section 952 of the Internal Revenue Code. No inference
17 shall be drawn from the enactment of this paragraph (D) in
18 construing this Section for taxable years ending before
19 December 31, 1995.

20 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
21 ending on or after December 31, 1999, provided that a
22 taxpayer may elect to apply the provisions of these
23 paragraphs to prior tax years. Such election shall be made
24 in the form and manner prescribed by the Department, shall
25 be irrevocable, and shall apply to all tax years; provided
26 that, if a taxpayer's Illinois income tax liability for any

1 tax year, as assessed under Section 903 prior to January 1,
2 1999, was computed in a manner contrary to the provisions
3 of paragraphs (B-1) or (B-2), no refund shall be payable to
4 the taxpayer for that tax year to the extent such refund is
5 the result of applying the provisions of paragraph (B-1) or
6 (B-2) retroactively. In the case of a unitary business
7 group, such election shall apply to all members of such
8 group for every tax year such group is in existence, but
9 shall not apply to any taxpayer for any period during which
10 that taxpayer is not a member of such group.

11 (b) Insurance companies.

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

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

1 paragraph for its first taxable year ending on or after
2 December 31, 2011, shall be binding for that company for
3 that taxable year and for all subsequent taxable years, and
4 may be altered only with the written permission of the
5 Department, which shall not be unreasonably withheld.

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. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08;
10 96-763, eff. 8-25-09.)

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 (other than, for taxable years ending on or after
5 December 31, 2011, a nonresident required to withhold tax under
6 Section 709.5) whose Illinois income tax liability under
7 subsections (a), (b), (c), and (d) of Section 201 of this Act
8 is paid in full after taking into account the credits allowed
9 under subsection (f) of this Section or allowed under Section
10 709.5 of this Act shall not be required to file a return under
11 this subsection (a).

12 (b) Fiduciaries and receivers.

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

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

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

26 (4) Receivers, trustees and assignees for

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

10 (c) Joint returns by husband and wife.

11 (1) Except as provided in paragraph (3):

12 (A) if a husband and wife file a joint federal
13 income tax return for a taxable year ending before
14 December 31, 2009, they shall file a joint return under
15 this Act for such taxable year and their liabilities
16 shall be joint and several;

17 (B) if a husband and wife file a joint federal
18 income tax return for a taxable year ending on or after
19 December 31, 2009, they may elect to file separate
20 returns under this Act for such taxable year. The
21 election under this paragraph must be made on or before
22 the due date (including extensions) of the return and,
23 once made, shall be irrevocable. If no election is
24 timely made under this paragraph for a taxable year:

25 (i) the couple must file a joint return under
26 this Act for such taxable year,

1 (ii) their liabilities shall be joint and
2 several, and

3 (iii) any overpayment for that taxable year
4 may be withheld under Section 909 of this Act or
5 under Section 2505-275 of the Civil Administrative
6 Code of Illinois and applied against a debt of
7 either spouse without regard to the amount of the
8 overpayment attributable to the other spouse; and

9 (C) if the federal income tax liability of either
10 spouse is determined on a separate federal income tax
11 return, they shall file separate returns under this
12 Act.

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

18 (3) If either husband or wife is a resident and the
19 other is a nonresident, they shall file separate returns in
20 this State on such forms as may be required by the
21 Department in which event their tax liabilities shall be
22 separate; but if they file a joint federal income tax
23 return for a taxable year, they may elect to determine
24 their joint net income and file a joint return for that
25 taxable year under the provisions of paragraph (1) of this
26 subsection as if both were residents and in such case,

1 their liabilities shall be joint and several.

2 (4) Innocent spouses.

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

17 (B) For tax liabilities arising on and after August
18 13, 1999 or which arose prior to that date, but remain
19 unpaid as of that date, if an individual who filed a
20 joint return for any taxable year has made an election
21 under this paragraph, the individual's liability for
22 any tax shown on the joint return shall not exceed the
23 individual's separate return amount and the
24 individual's liability for any deficiency assessed for
25 that taxable year shall not exceed the portion of the
26 deficiency properly allocable to the individual. For

1 purposes of this paragraph:

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

9 (ii) If no election has been made under Section
10 6015, the individual may make an election under
11 this paragraph in the form and manner prescribed by
12 the Department, provided that no election may be
13 made if the Department finds that assets were
14 transferred between individuals filing a joint
15 return as part of a scheme by such individuals to
16 avoid payment of Illinois income tax and the
17 election shall not eliminate the individual's
18 liability for any portion of a deficiency
19 attributable to an error on the return of which the
20 individual had actual knowledge as of the date of
21 filing.

22 (iii) In determining the separate return
23 amount or portion of any deficiency attributable
24 to an individual, the Department shall follow the
25 provisions in subsections (c) and (d) of Section
26 6015 of the Internal Revenue Code.

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

25 (v) Any election made by an individual under
26 this subsection shall apply to all years for which

1 that individual and the spouse named in the
2 election have filed a joint return.

3 (vi) After receiving a notice that the federal
4 election has been made or after receiving an
5 election under subdivision (ii), the Department
6 shall take no collection action against the
7 electing individual for any liability arising from
8 a joint return covered by the election until the
9 Department has notified the electing individual in
10 writing that the election is invalid or of the
11 portion of the liability the Department has
12 allocated to the electing individual. Within 60
13 days (150 days if the individual is outside the
14 United States) after the issuance of such
15 notification, the individual may file a written
16 protest of the denial of the election or of the
17 Department's determination of the liability
18 allocated to him or her and shall be granted a
19 hearing within the Department under the provisions
20 of Section 908. If a protest is filed, the
21 Department shall take no collection action against
22 the electing individual until the decision
23 regarding the protest has become final under
24 subsection (d) of Section 908 or, if
25 administrative review of the Department's decision
26 is requested under Section 1201, until the

1 decision of the court becomes final.

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

13 (e) For taxable years ending on or after December 31, 1985,
14 and before December 31, 1993, taxpayers that are corporations
15 (other than Subchapter S corporations) having the same taxable
16 year and that are members of the same unitary business group
17 may elect to be treated as one taxpayer for purposes of any
18 original return, amended return which includes the same
19 taxpayers of the unitary group which joined in the election to
20 file the original return, extension, claim for refund,
21 assessment, collection and payment and determination of the
22 group's tax liability under this Act. This subsection (e) does
23 not permit the election to be made for some, but not all, of
24 the purposes enumerated above. For taxable years ending on or
25 after December 31, 1987, corporate members (other than
26 Subchapter S corporations) of the same unitary business group

1 making this subsection (e) election are not required to have
2 the same taxable year.

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

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

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

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

23 For taxable years ending on or after December 31, 2008,
24 every nonresident shall be allowed a credit against his or her
25 liability under subsections (a) and (b) of Section 201 for any
26 amount of tax reported on a composite return and paid on his or

1 her behalf under this subsection (f). Residents (other than
2 persons transacting an insurance business organized under a
3 Lloyds plan of operation) may claim a credit for taxes reported
4 on a composite return and paid on their behalf under this
5 subsection (f) only as permitted by the Department by rule.

6 (f-5) For taxable years ending on or after December 31,
7 2008, the Department may adopt rules to provide that, when a
8 partnership or Subchapter S corporation has made an error in
9 determining the amount of any item of income, deduction,
10 addition, subtraction, or credit required to be reported on its
11 return that affects the liability imposed under this Act on a
12 partner or shareholder, the partnership or Subchapter S
13 corporation may report the changes in liabilities of its
14 partners or shareholders and claim a refund of the resulting
15 overpayments, or pay the resulting underpayments, on behalf of
16 its partners and shareholders.

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

20 (Source: P.A. 95-233, eff. 8-16-07; 96-520, eff. 8-14-09.)

21 (35 ILCS 5/506) (from Ch. 120, par. 5-506)

22 Sec. 506. Federal Returns.

23 (a) In general. Any person required to make a return for a
24 taxable year under this Act may, at any time that a deficiency
25 could be assessed or a refund claimed under this Act in respect

1 of any item reported or properly reportable on such return or
2 any amendment thereof, be required to furnish to the Department
3 a true and correct copy of any return which may pertain to such
4 item and which was filed by such person under the provisions of
5 the Internal Revenue Code.

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

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

22 (2) the amount of tax required to be withheld by that
23 person from compensation paid to employees and required to
24 be reported by that person on a federal return is altered
25 by amendment of the return or by any other recomputation or
26 redetermination that is agreed to or finally determined on

1 or after January 1, 2003, and the alteration affects the
2 amount of compensation subject to withholding by that
3 person under Section 701 of this Act.

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

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

16 (35 ILCS 5/601) (from Ch. 120, par. 6-601)

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

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

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

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

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

23 (2) Estimated and tentative tax payments. Any amount of
24 estimated tax paid by a taxpayer pursuant to Article 8 for
25 a taxable year shall be deemed to have been paid on account
26 of the tax imposed by this Act for such taxable year.

1 (3) Foreign tax. The aggregate amount of tax which is
2 imposed upon or measured by income and which is paid by a
3 resident for a taxable year to another state or states on
4 income which is also subject to the tax imposed by
5 subsections 201(a) and (b) of this Act shall be credited
6 against the tax imposed by subsections 201(a) and (b)
7 otherwise due under this Act for such taxable year. For
8 taxable years ending prior to December 31, 2009, the
9 aggregate credit provided under this paragraph shall not
10 exceed that amount which bears the same ratio to the tax
11 imposed by subsections 201(a) and (b) otherwise due under
12 this Act as the amount of the taxpayer's base income
13 subject to tax both by such other state or states and by
14 this State bears to his total base income subject to tax by
15 this State for the taxable year. For taxable years ending
16 on or after December 31, 2009, the credit provided under
17 this paragraph for tax paid to other states shall not
18 exceed that amount which bears the same ratio to the tax
19 imposed by subsections 201(a) and (b) otherwise due under
20 this Act as the amount of the taxpayer's base income that
21 would be allocated or apportioned to other states if all
22 other states had adopted the provisions in Article 3 of
23 this Act bears to the taxpayer's total base income subject
24 to tax by this State for the taxable year. The credit
25 provided by this paragraph shall not be allowed if any
26 creditable tax was deducted in determining base income for

1 the taxable year. Any person claiming such credit shall
2 attach a statement in support thereof and shall notify the
3 Director of any refund or reductions in the amount of tax
4 claimed as a credit hereunder all in such manner and at
5 such time as the Department shall by regulations prescribe.

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

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

25 (Source: P.A. 96-468, eff. 8-14-09.)

1 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

2 Sec. 701. Requirement and Amount of Withholding.

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

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

8 (2) payments described in subsection (b) shall deduct
9 and withhold from such compensation for each payroll period
10 (as defined in Section 3401 of the Internal Revenue Code)
11 an amount equal to the amount by which such individual's
12 compensation exceeds the proportionate part of this
13 withholding exemption (computed as provided in Section
14 702) attributable to the payroll period for which such
15 compensation is payable multiplied by a percentage equal to
16 the percentage tax rate for individuals provided in
17 subsection (b) of Section 201.

18 (b) Payment to Residents. Any payment (including
19 compensation) to a resident by a payor maintaining an office or
20 transacting business within this State (including any agency,
21 officer, or employee of this State or of any political
22 subdivision of this State) and on which withholding of tax is
23 required under the provisions of the Internal Revenue Code
24 shall be deemed to be compensation paid in this State by an
25 employer to an employee for the purposes of Article 7 and
26 Section 601(b)(1) to the extent such payment is included in the

1 recipient's base income and not subjected to withholding by
2 another state. Notwithstanding any other provision to the
3 contrary, no amount shall be withheld from unemployment
4 insurance benefit payments made to an individual pursuant to
5 the Unemployment Insurance Act unless the individual has
6 voluntarily elected the withholding pursuant to rules
7 promulgated by the Director of Employment Security.

8 (c) Special Definitions. Withholding shall be considered
9 required under the provisions of the Internal Revenue Code to
10 the extent the Internal Revenue Code either requires
11 withholding or allows for voluntary withholding the payor and
12 recipient have entered into such a voluntary withholding
13 agreement. For the purposes of Article 7 and Section 1002(c)
14 the term "employer" includes any payor who is required to
15 withhold tax pursuant to this Section.

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

25 (e) Notwithstanding subsection (a)(2) of this Section, no
26 withholding is required on payments for which withholding is

1 required under Section 3405 or 3406 of the Internal Revenue
2 Code ~~of 1954~~.

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

4 (35 ILCS 5/702) (from Ch. 120, par. 7-702)

5 Sec. 702. Amount Exempt from Withholding. For purposes of
6 this Section an employee shall be entitled to a withholding
7 exemption in an amount equal to the basic amount in Section
8 204(b) for each personal or dependent exemption which he is
9 entitled to claim on his federal return pursuant to Section 151
10 of the Internal Revenue Code ~~of 1986~~; plus an allowance equal
11 to \$1,000 for each \$1,000 he is entitled to deduct from gross
12 income in arriving at adjusted gross income pursuant to Section
13 62 of the Internal Revenue Code ~~of 1986~~; plus an additional
14 allowance equal to \$1,000 for each \$1,000 eligible for
15 subtraction on his Illinois income tax return as Illinois real
16 estate taxes paid during the taxable year; or in any lesser
17 amount claimed by him. Every employee shall furnish to his
18 employer such information as is required for the employer to
19 make an accurate withholding under this Act. The employer may
20 rely on this information for withholding purposes. If any
21 employee fails or refuses to furnish such information, the
22 employer shall withhold the full rate of tax from the
23 employee's total compensation.

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

1 (35 ILCS 5/703) (from Ch. 120, par. 7-703)

2 Sec. 703. Information statement. Every employer required
3 to deduct and withhold tax under this Act from compensation of
4 an employee, or who would have been required so to deduct and
5 withhold tax if the employee's withholding exemption were not
6 in excess of the basic amount in Section 204(b), shall furnish
7 in duplicate to each such employee in respect of the
8 compensation paid by such employer to such employee during the
9 calendar year on or before January 31 of the succeeding year,
10 or, if his employment is terminated before the close of such
11 calendar year, on the date on which the last payment of
12 compensation is made, a written statement in such form as the
13 Department may by regulation prescribe showing the amount of
14 compensation paid by the employer to the employee, the amount
15 deducted and withheld as tax, ~~the tax-exempt amount contributed~~
16 ~~to a medical savings account,~~ and such other information as the
17 Department shall prescribe. A copy of such statement shall be
18 filed by the employee with his return for his taxable year to
19 which it relates (as determined under Section 601(b)(1)).

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

21 (35 ILCS 5/704A)

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

23 (a) In general, every employer who deducts and withholds or
24 is required to deduct and withhold tax under this Act on or
25 after January 1, 2008 shall make those payments and returns as

1 provided in this Section.

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

8 (c) Payments. With respect to amounts withheld or required
9 to be withheld on or after January 1, 2008:

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

14 (A) on or before each Friday of the calendar year,
15 for taxes withheld or required to be withheld on the
16 immediately preceding Saturday, Sunday, Monday, or
17 Tuesday;

18 (B) on or before each Wednesday of the calendar
19 year, for taxes withheld or required to be withheld on
20 the immediately preceding Wednesday, Thursday, or
21 Friday.

22 Beginning with calendar year 2011, payments ~~payment~~
23 made under this paragraph (1) of subsection (c) must be
24 made by electronic funds transfer.

25 (2) Semi-weekly payments. Any employer who withholds
26 or is required to withhold more than \$12,000 in any quarter

1 of a calendar year is required to make payments on the
2 dates set forth under item (1) of this subsection (c) for
3 each remaining quarter of that calendar year and for the
4 subsequent calendar year.

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

10 (4) Payments with returns. Each employer shall pay to
11 the Department, on or before the due date for each return
12 required to be filed under this Section, any tax withheld
13 or required to be withheld during the period for which the
14 return is due and not previously paid to the Department.

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

16 (1) Permit employers, in lieu of the requirements of
17 subsections (b) and (c), to file annual returns due on or
18 before January 31 of the year for taxes withheld or
19 required to be withheld during the previous calendar year
20 and, if the aggregate amounts required to be withheld by
21 the employer under this Article 7 (other than amounts
22 required to be withheld under Section 709.5) do not exceed
23 \$1,000 for the previous calendar year, to pay the taxes
24 required to be shown on each such return no later than the
25 due date for such return.

26 (2) Provide that any payment required to be made under

1 subsection (c)(1) or (c)(2) is deemed to be timely to the
2 extent paid by electronic funds transfer on or before the
3 due date for deposit of federal income taxes withheld from,
4 or federal employment taxes due with respect to, the wages
5 from which the Illinois taxes were withheld.

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

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

12 (e) Annual return and payment. Every employer who deducts
13 and withholds or is required to deduct and withhold tax from a
14 person engaged in domestic service employment, as that term is
15 defined in Section 3510 of the Internal Revenue Code, may
16 comply with the requirements of this Section with respect to
17 such employees by filing an annual return and paying the taxes
18 required to be deducted and withheld on or before the 15th day
19 of the fourth month following the close of the employer's
20 taxable year. The Department may allow the employer's return to
21 be submitted with the employer's individual income tax return
22 or to be submitted with a return due from the employer under
23 Section 1400.2 of the Unemployment Insurance Act.

24 (f) Magnetic media and electronic filing. Any W-2 Form
25 that, under the Internal Revenue Code and regulations
26 promulgated thereunder, is required to be submitted to the

1 Internal Revenue Service on magnetic media or electronically
2 must also be submitted to the Department on magnetic media or
3 electronically for Illinois purposes, if required by the
4 Department.

5 (g) For amounts deducted or withheld after December 31,
6 2009, a taxpayer who makes an election under subsection (f) of
7 Section 5-15 of the Economic Development for a Growing Economy
8 Tax Credit Act for a taxable year shall be allowed a credit
9 against payments due under this Section for amounts withheld
10 during the first calendar year beginning after the end of that
11 taxable year equal to the amount of the credit for the
12 incremental income tax attributable to full-time employees of
13 the taxpayer awarded to the taxpayer by the Department of
14 Commerce and Economic Opportunity under the Economic
15 Development for a Growing Economy Tax Credit Act for the
16 taxable year and credits not previously claimed and allowed to
17 be carried forward under Section 211(4) of this Act as provided
18 in subsection (f) of Section 5-15 of the Economic Development
19 for a Growing Economy Tax Credit Act. The credit or credits may
20 not reduce the taxpayer's obligation for any payment due under
21 this Section to less than zero. If the amount of the credit or
22 credits exceeds the total payments due under this Section with
23 respect to amounts withheld during the calendar year, the
24 excess may be carried forward and applied against the
25 taxpayer's liability under this Section in the succeeding
26 calendar years as allowed to be carried forward under paragraph

1 (4) of Section 211 of this Act. The credit or credits shall be
2 applied to the earliest year for which there is a tax
3 liability. If there are credits from more than one taxable year
4 that are available to offset a liability, the earlier credit
5 shall be applied first. Each employer who deducts and withholds
6 or is required to deduct and withhold tax under this Act and
7 who retains income tax withholdings under subsection (f) of
8 Section 5-15 of the Economic Development for a Growing Economy
9 Tax Credit Act must make a return with respect to such taxes
10 and retained amounts in the form and manner that the
11 Department, by rule, requires and pay to the Department or to a
12 depository designated by the Department those withheld taxes
13 not retained by the taxpayer. For purposes of this subsection
14 (g), the term taxpayer shall include taxpayer and members of
15 the taxpayer's unitary business group as defined under
16 paragraph (27) of subsection (a) of Section 1501 of this Act.
17 This Section is exempt from the provisions of Section 250 of
18 this Act.

19 (h) An employer may claim a credit against payments due
20 under this Section for amounts withheld during the first
21 calendar year ending after the date on which a tax credit
22 certificate was issued under Section 35 of the Small Business
23 Job Creation Tax Credit Act. The credit shall be equal to the
24 amount shown on the certificate, but may not reduce the
25 taxpayer's obligation for any payment due under this Section to
26 less than zero. If the amount of the credit exceeds the total

1 payments due under this Section with respect to amounts
2 withheld during the calendar year, the excess may be carried
3 forward and applied against the taxpayer's liability under this
4 Section in the 5 succeeding calendar years. The credit shall be
5 applied to the earliest year for which there is a tax
6 liability. If there are credits from more than one calendar
7 year that are available to offset a liability, the earlier
8 credit shall be applied first. This Section is exempt from the
9 provisions of Section 250 of this Act.

10 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08; 96-834,
11 eff. 12-14-09; 96-888, eff. 4-13-10; 96-905, eff. 6-4-10;
12 96-1027, eff. 7-12-10; revised 9-16-10.)

13 (35 ILCS 5/709.5)

14 Sec. 709.5. Withholding by partnerships, Subchapter S
15 corporations, and trusts.

16 (a) In general. For each taxable year ending on or after
17 December 31, 2008, every partnership (other than a publicly
18 traded partnership under Section 7704 of the Internal Revenue
19 Code or investment partnership), Subchapter S corporation, and
20 trust must withhold from each nonresident partner,
21 shareholder, or beneficiary (other than a partner,
22 shareholder, or beneficiary who is exempt from tax under
23 Section 501(a) of the Internal Revenue Code or under Section
24 205 of this Act, ~~or~~ who is included on a composite return filed
25 by the partnership or Subchapter S corporation for the taxable

1 year under subsection (f) of Section 502 of this Act), or who
2 is a retired partner, to the extent that partner's
3 distributions are exempt from tax under Section 203(a)(2)(F) of
4 this Act) an amount equal to the distributable share of the
5 business income of the partnership, Subchapter S corporation,
6 or trust apportionable to Illinois of that partner,
7 shareholder, or beneficiary under Sections 702 and 704 and
8 Subchapter S of the Internal Revenue Code, whether or not
9 distributed, multiplied by the applicable rates of tax for that
10 partner or shareholder under subsections (a) through (d) of
11 Section 201 of this Act.

12 (b) Credit for taxes withheld. Any amount withheld under
13 subsection (a) of this Section and paid to the Department shall
14 be treated as a payment of the estimated tax liability or of
15 the liability for withholding under this Section of the
16 partner, shareholder, or beneficiary to whom the income is
17 distributable for the taxable year in which that person
18 incurred a liability under this Act with respect to that
19 income. The Department shall adopt rules pursuant to which a
20 partner, shareholder, or beneficiary may claim a credit against
21 its obligation for withholding under this Section for amounts
22 withheld under this Section with respect to income
23 distributable to it by a partnership, Subchapter S corporation,
24 or trust and allowing its partners, shareholders, or
25 beneficiaries to claim a credit under this subsection (b) for
26 those withheld amounts.

1 (c) Exemption from withholding.

2 (1) A partnership, Subchapter S corporation, or trust
3 shall not be required to withhold tax under subsection (a)
4 of this Section with respect to any nonresident partner,
5 shareholder, or beneficiary (other than an individual)
6 from whom the partnership, S corporation, or trust has
7 received a certificate, completed in the form and manner
8 prescribed by the Department, stating that such
9 nonresident partner, shareholder, or beneficiary shall:

10 (A) file all returns that the partner,
11 shareholder, or beneficiary is required to file under
12 Section 502 of this Act and make timely payment of all
13 taxes imposed under Section 201 of this Act or under
14 this Section on the partner, shareholder, or
15 beneficiary with respect to income of the partnership,
16 S corporation, or trust; and

17 (B) be subject to personal jurisdiction in this
18 State for purposes of the collection of income taxes,
19 together with related interest and penalties, imposed
20 on the partner, shareholder, or beneficiary with
21 respect to the income of the partnership, S
22 corporation, or trust.

23 (2) The Department may revoke the exemption provided by
24 this subsection (c) at any time that it determines that the
25 nonresident partner, shareholder, or beneficiary is not
26 abiding by the terms of the certificate. The Department

1 shall notify the partnership, S corporation, or trust that
2 it has revoked a certificate by notice left at the usual
3 place of business of the partnership, S corporation, or
4 trust or by mail to the last known address of the
5 partnership, S corporation, or trust.

6 (3) A partnership, S corporation, or trust that
7 receives a certificate under this subsection (c) properly
8 completed by a nonresident partner, shareholder, or
9 beneficiary shall not be required to withhold any amount
10 from that partner, shareholder, or beneficiary, the
11 payment of which would be due under Section 711(a-5) of
12 this Act after the receipt of the certificate and no
13 earlier than 60 days after the Department has notified the
14 partnership, S corporation, or trust that the certificate
15 has been revoked.

16 (4) Certificates received by a the partnership, S
17 corporation, or trust under this subsection (c) must be
18 retained by the partnership, S corporation, or trust and a
19 record of such certificates must be provided to the
20 Department, in a format in which the record is available
21 for review by the Department, upon request by the
22 Department. The Department may, by rule, require the record
23 of certificates to be maintained and provided to the
24 Department electronically.

25 (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08.)

1 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

2 Sec. 804. Failure to Pay Estimated Tax.

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

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

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

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

16 (c) Amount of Required Installments.

17 (1) Amount.

18 (A) In General. Except as provided in paragraph
19 (2), the amount of any required installment shall be
20 25% of the required annual payment.

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

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

1 (ii) for installments due prior to February 1,
2 2011, and after January 31, 2012, 100% of the tax
3 shown on the return of the taxpayer for the
4 preceding taxable year if a return showing a
5 liability for tax was filed by the taxpayer for the
6 preceding taxable year and such preceding year was
7 a taxable year of 12 months; or

8 (iii) for installments due after January 31,
9 2011, and prior to February 1, 2012, 150% of the
10 tax shown on the return of the taxpayer for the
11 preceding taxable year if a return showing a
12 liability for tax was filed by the taxpayer for the
13 preceding taxable year and such preceding year was
14 a taxable year of 12 months.

15 (2) Lower Required Installment where Annualized Income
16 Installment is Less Than Amount Determined Under Paragraph
17 (1).

18 (A) In General. In the case of any required
19 installment if a taxpayer establishes that the
20 annualized income installment is less than the amount
21 determined under paragraph (1),

22 (i) the amount of such required installment
23 shall be the annualized income installment, and

24 (ii) any reduction in a required installment
25 resulting from the application of this
26 subparagraph shall be recaptured by increasing the

1 amount of the next required installment determined
 2 under paragraph (1) by the amount of such
 3 reduction, and by increasing subsequent required
 4 installments to the extent that the reduction has
 5 not previously been recaptured under this clause.

6 (B) Determination of Annualized Income
 7 Installment. In the case of any required installment,
 8 the annualized income installment is the excess, if
 9 any, of

10 (i) an amount equal to the applicable
 11 percentage of the tax for the taxable year computed
 12 by placing on an annualized basis the net income
 13 for months in the taxable year ending before the
 14 due date for the installment, over

15 (ii) the aggregate amount of any prior
 16 required installments for the taxable year.

17 (C) Applicable Percentage.

18	In the case of the following	The applicable
19	required installments:	percentage is:
20	1st.....	22.5%
21	2nd.....	45%
22	3rd.....	67.5%
23	4th.....	90%

24 (D) Annualized Net Income; Individuals. For
 25 individuals, net income shall be placed on an
 26 annualized basis by:

1 (i) multiplying by 12, or in the case of a
2 taxable year of less than 12 months, by the number
3 of months in the taxable year, the net income
4 computed without regard to the standard exemption
5 for the months in the taxable year ending before
6 the month in which the installment is required to
7 be paid;

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

11 (iii) deducting from such amount the standard
12 exemption allowable for the taxable year, such
13 standard exemption being determined as of the last
14 date prescribed for payment of the installment.

15 (E) Annualized Net Income; Corporations. For
16 corporations, net income shall be placed on an
17 annualized basis by multiplying by 12 the taxable
18 income

19 (i) for the first 3 months of the taxable year,
20 in the case of the installment required to be paid
21 in the 4th month,

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

25 (iii) for the first 6 months or for the first 8
26 months of the taxable year, in the case of the

1 installment required to be paid in the 9th month,
2 and

3 (iv) for the first 9 months or for the first 11
4 months of the taxable year, in the case of the
5 installment required to be paid in the 12th month
6 of the taxable year,

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

10 (d) Exceptions. Notwithstanding the provisions of the
11 preceding subsections, the penalty imposed by subsection (a)
12 shall not be imposed if the taxpayer was not required to file
13 an Illinois income tax return for the preceding taxable year,
14 or, for individuals, if the taxpayer had no tax liability for
15 the preceding taxable year and such year was a taxable year of
16 12 months. The penalty imposed by subsection (a) shall also not
17 be imposed on any underpayments of estimated tax due before the
18 effective date of this amendatory Act of 1998 which
19 underpayments are solely attributable to the change in
20 apportionment from subsection (a) to subsection (h) of Section
21 304. The provisions of this amendatory Act of 1998 apply to tax
22 years ending on or after December 31, 1998.

23 (e) The penalty imposed for underpayment of estimated tax
24 by subsection (a) of this Section shall not be imposed to the
25 extent that the Director or his or her designate determines,
26 pursuant to Section 3-8 of the Uniform Penalty and Interest Act

1 that the penalty should not be imposed.

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

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

8 (1) ~~in the case of an individual,~~ tax withheld from
9 compensation for the taxable year shall be deemed a payment
10 of estimated tax, and an equal part of such amount shall be
11 deemed paid on each installment date for such taxable year,
12 unless the taxpayer establishes the dates on which all
13 amounts were actually withheld, in which case the amounts
14 so withheld shall be deemed payments of estimated tax on
15 the dates on which such amounts were actually withheld;

16 (2) amounts timely paid by a partnership, Subchapter S
17 corporation, or trust on behalf of a partner, shareholder,
18 or beneficiary pursuant to subsection (f) of Section 502 or
19 Section 709.5 and claimed as a payment of estimated tax
20 shall be deemed a payment of estimated tax made on the last
21 day of the taxable year of the partnership, Subchapter S
22 corporation, or trust for which the income from the
23 withholding is made was computed; and

24 (3) all other amounts pursuant to Article 7 shall be
25 deemed a payment of estimated tax on the date the payment
26 is made to the taxpayer of the amount from which the tax is

1 withheld.

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

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

11 The changes in this Section made by Public Act 84-127 shall
12 apply to taxable years ending on or after January 1, 1986.

13 (Source: P.A. 95-233, eff. 8-16-07; 96-1496, eff. 1-13-11.)

14 (35 ILCS 5/909) (from Ch. 120, par. 9-909)

15 Sec. 909. Credits and Refunds.

16 (a) In general. In the case of any overpayment, the
17 Department, within the applicable period of limitations for a
18 claim for refund, may credit the amount of such overpayment,
19 including any interest allowed thereon, against any liability
20 in respect of the tax imposed by this Act, regardless of
21 whether other collection remedies are closed to the Department
22 on the part of the person who made the overpayment and shall
23 refund any balance to such person.

24 (b) Credits against estimated tax. The Department may
25 prescribe regulations providing for the crediting against the

1 estimated tax for any taxable year of the amount determined by
2 the taxpayer or the Department to be an overpayment of the tax
3 imposed by this Act for a preceding taxable year.

4 (c) Interest on overpayment. Interest shall be allowed and
5 paid at the rate and in the manner prescribed in Section 3-2 of
6 the Uniform Penalty and Interest Act upon any overpayment in
7 respect of the tax imposed by this Act. For purposes of this
8 subsection, no amount of tax, for any taxable year, shall be
9 treated as having been paid before the date on which the tax
10 return for such year was due under Section 505, without regard
11 to any extension of the time for filing such return.

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

16 (e) Notice of denial. As soon as practicable after a claim
17 for refund is filed, the Department shall examine it and either
18 issue a notice of refund, abatement or credit to the claimant
19 or issue a notice of denial. If the Department has failed to
20 approve or deny the claim before the expiration of 6 months
21 from the date the claim was filed, the claimant may
22 nevertheless thereafter file with the Department a written
23 protest in such form as the Department may by regulation
24 prescribe. If a protest is filed, the Department shall consider
25 the claim and, if the taxpayer has so requested, shall grant
26 the taxpayer or the taxpayer's authorized representative a

1 hearing within 6 months after the date such request is filed.

2 (f) Effect of denial. A denial of a claim for refund
3 becomes final 60 days after the date of issuance of the notice
4 of such denial except for such amounts denied as to which the
5 claimant has filed a protest with the Department, as provided
6 by Section 910.

7 (g) An overpayment of tax shown on the face of an unsigned
8 return shall be considered forfeited to the State if after
9 notice and demand for signature by the Department the taxpayer
10 fails to provide a signature and 3 years have passed from the
11 date the return was filed. An overpayment of tax refunded to a
12 taxpayer whose return was filed electronically shall be
13 considered an erroneous refund under Section 912 of this Act
14 if, after proper notice and demand by the Department, the
15 taxpayer fails to provide a required signature document. A
16 notice and demand for signature in the case of a return
17 reflecting an overpayment may be made by first class mail. This
18 subsection (g) shall apply to all returns filed pursuant to
19 this Act since 1969.

20 (h) This amendatory Act of 1983 applies to returns and
21 claims for refunds filed with the Department on and after July
22 1, 1983.

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

24 (35 ILCS 5/911) (from Ch. 120, par. 9-911)
25 Sec. 911. Limitations on Claims for Refund.

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

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

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

13 (b) Federal changes.

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

25 (2) Tentative carryback adjustments paid before
26 January 1, 1974. If, as the result of the payment before

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

12 (c) Extension by agreement. Where, before the expiration of
13 the time prescribed in this section for the filing of a claim
14 for refund, both the Department and the claimant shall have
15 consented in writing to its filing after such time, such claim
16 may be filed at any time prior to the expiration of the period
17 agreed upon. The period so agreed upon may be extended by
18 subsequent agreements in writing made before the expiration of
19 the period previously agreed upon. In the case of a taxpayer
20 who is a partnership, Subchapter S corporation, or trust and
21 who enters into an agreement with the Department pursuant to
22 this subsection on or after January 1, 2003, a claim for refund
23 may be filed by ~~issued to~~ the partners, shareholders, or
24 beneficiaries of the taxpayer at any time prior to the
25 expiration of the period agreed upon. Any refund allowed
26 pursuant to the claim, however, shall be limited to the amount

1 of any overpayment of tax due under this Act that results from
2 recomputation of items of income, deduction, credits, or other
3 amounts of the taxpayer that are taken into account by the
4 partner, shareholder, or beneficiary in computing its
5 liability under this Act.

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

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

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

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

23 (f) No claim for refund or credit based on the taxpayer's
24 taking a credit for estimated tax payments as provided by
25 Section 601(b)(2) or for any amount paid by a taxpayer pursuant
26 to Section 602(a) or for any amount of credit for tax withheld

1 pursuant to Article 7 may be filed unless a return was filed
2 for the tax year not more than 3 years after the due date, as
3 provided by Section 505, of the return which was required to be
4 filed relative to the taxable year for which the payments were
5 made or for which the tax was withheld. The changes in this
6 subsection (f) made by this amendatory Act of 1987 shall apply
7 to all taxable years ending on or after December 31, 1969.

8 (g) Special Period of Limitation with Respect to Net Loss
9 Carrybacks. If the claim for refund relates to an overpayment
10 attributable to a net loss carryback as provided by Section
11 207, in lieu of the 3 year period of limitation prescribed in
12 subsection (a), the period shall be that period which ends 3
13 years after the time prescribed by law for filing the return
14 (including extensions thereof) for the taxable year of the net
15 loss which results in such carryback (or, on and after August
16 13, 1999, with respect to a change in the carryover of an
17 Article 2 credit to a taxable year resulting from the carryback
18 of a Section 207 loss incurred in a taxable year beginning on
19 or after January 1, 2000, the period shall be that period that
20 ends 3 years after the time prescribed by law for filing the
21 return (including extensions of that time) for that subsequent
22 taxable year), or the period prescribed in subsection (c) in
23 respect of such taxable year, whichever expires later. In the
24 case of such a claim, the amount of the refund may exceed the
25 portion of the tax paid within the period provided in
26 subsection (d) to the extent of the amount of the overpayment

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

16 (h) Claim for refund based on net loss. On and after August
17 23, 2002, no claim for refund shall be allowed to the extent
18 the refund is the result of an amount of net loss incurred in
19 any taxable year ending prior to December 31, 2002 under
20 Section 207 of this Act that was not reported to the Department
21 within 3 years of the due date (including extensions) of the
22 return for the loss year on either the original return filed by
23 the taxpayer or on amended return or to the extent that the
24 refund is the result of an amount of net loss incurred in any
25 taxable year under Section 207 for which no return was filed
26 within 3 years of the due date (including extensions) of the

1 return for the loss year.

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

3 (35 ILCS 5/1002) (from Ch. 120, par. 10-1002)

4 Sec. 1002. Failure to Pay Tax.

5 (a) Negligence. If any part of a deficiency is due to
6 negligence or intentional disregard of rules and regulations
7 (but without intent to defraud) there shall be added to the tax
8 as a penalty the amount prescribed by Section 3-5 of the
9 Uniform Penalty and Interest Act.

10 (b) Fraud. If any part of a deficiency is due to fraud,
11 there shall be added to the tax as a penalty the amount
12 prescribed by Section 3-6 of the Uniform Penalty and Interest
13 Act.

14 (c) Nonwillful failure to pay withholding tax. If any
15 employer, without intent to evade or defeat any tax imposed by
16 this Act or the payment thereof, shall fail to make a return
17 and pay a tax withheld by him at the time required by or under
18 the provisions of this Act, such employer shall be liable for
19 such taxes and shall pay the same together with the interest
20 and the penalty provided by Sections 3-2 and 3-3, respectively,
21 of the Uniform Penalty and Interest Act and such interest and
22 penalty shall not be charged to or collected from the employee
23 by the employer.

24 (d) Willful failure to collect and pay over tax. Any person
25 required to collect, truthfully account for, and pay over the

1 tax imposed by this Act who willfully fails to collect such tax
2 or truthfully account for and pay over such tax or willfully
3 attempts in any manner to evade or defeat the tax or the
4 payment thereof, shall, in addition to other penalties provided
5 by law, be liable for the penalty imposed by Section 3-7 of the
6 Uniform Penalty and Interest Act.

7 (e) Penalties assessable.

8 (1) In general. Except as otherwise provided in this
9 Act or the Uniform Penalty and Interest Act, the penalties
10 provided by this Act or by the Uniform Penalty and Interest
11 Act shall be paid upon notice and demand and shall be
12 assessed, collected, and paid in the same manner as taxes
13 and any reference in this Act to the tax imposed by this
14 Act shall be deemed also to refer to penalties provided by
15 this Act or by the Uniform Penalty and Interest Act.

16 (2) Procedure for assessing certain penalties. For the
17 purposes of Article 9 any penalty under Section 804(a) or
18 Section 1001 shall be deemed assessed upon the filing of
19 the return for the taxable year.

20 (3) Procedure for assessing the penalty for failure to
21 file withholding returns or annual transmittal forms for
22 wage and tax statements. The penalty imposed by Section
23 1004 will be asserted by the Department's issuance of a
24 notice of deficiency. If taxpayer files a timely protest,
25 the procedures of Section 908 will be followed. If taxpayer
26 does not file a timely protest, the notice of deficiency

1 will constitute an assessment pursuant to subsection (c) of
2 Section 904.

3 (4) Assessment of penalty under Section 1005(a) ~~1005~~
4 ~~(b)~~. The penalty imposed under Section 1005(a) ~~1005(b)~~
5 shall be deemed assessed upon the assessment of the tax to
6 which such penalty relates and shall be collected and paid
7 on notice and demand in the same manner as the tax.

8 (f) Determination of deficiency. For purposes of
9 subsections (a) and (b), the amount shown as the tax by the
10 taxpayer upon his return shall be taken into account in
11 determining the amount of the deficiency only if such return
12 was filed on or before the last day prescribed by law for the
13 filing of such return, including any extensions of the time for
14 such filing.

15 (Source: P.A. 93-840, eff. 7-30-04.)

16 (35 ILCS 5/1101) (from Ch. 120, par. 11-1101)

17 Sec. 1101. Lien for Tax.

18 (a) If any person liable to pay any tax neglects or refuses
19 to pay the same after demand, the amount (including any
20 interest, additional amount, addition to tax, or assessable
21 penalty, together with any costs that may accrue in addition
22 thereto) shall be a lien in favor of the State of Illinois upon
23 all property and rights to property, whether real or personal,
24 belonging to such person.

25 (b) Unless another date is specifically fixed by law, the

1 lien imposed by subsection (a) of this Section shall arise at
2 the time the assessment is made and shall continue until the
3 liability for the amount so assessed (or a judgment against the
4 taxpayer arising out of such liability) is satisfied or becomes
5 unenforceable by reason of lapse of time.

6 (c) Deficiency procedure. If the lien arises from an
7 assessment pursuant to a notice of deficiency, such lien shall
8 not attach and the notice referred to in this section shall not
9 be filed until all proceedings in court for review of such
10 assessment have terminated or the time for the taking thereof
11 has expired without such proceedings being instituted.

12 (d) Notice of lien. The lien created by assessment shall
13 terminate unless a notice of lien is filed, as provided in
14 section 1103 hereof, within 3 years from the date all
15 proceedings in court for the review of such assessment have
16 terminated or the time for the taking thereof has expired
17 without such proceedings being instituted. Where the lien
18 results from the filing of a return without payment of the tax
19 or penalty shown therein to be due, the lien shall terminate
20 unless a notice of lien is filed within 3 years from the date
21 such return was filed with the Department. For the purposes of
22 this subsection (d) ~~(e)~~, a tax return filed before the last day
23 prescribed by law, including any extension thereof, shall be
24 deemed to have been filed on such last day. The time limitation
25 period on the Department's right to file a notice of lien shall
26 not run during any period of time in which the order of any

1 court has the effect of enjoining or restraining the Department
2 from filing such notice of lien.

3 (Source: P.A. 86-905.)

4 (35 ILCS 5/1402) (from Ch. 120, par. 14-1402)

5 Sec. 1402. Notice.

6 Whenever notice is required by this Act, such notice may
7 ~~shall~~, if not otherwise provided, be given or issued by mailing
8 it by first-class ~~registered or certified~~ mail addressed to the
9 person concerned at his last known address. Notice to a person
10 who is under a legal disability or deceased, shall be mailed to
11 his last known address or, if the Department has received
12 notice of the existence of a fiduciary for such person or his
13 estate, to such fiduciary.

14 (Source: P.A. 76-261.)

15 (35 ILCS 5/1405.4)

16 Sec. 1405.4. Tax refund inquiries; response. The
17 Department of Revenue shall establish procedures to inform
18 taxpayers of the status of their refunds and shall provide a
19 response to ~~respond in writing to~~ each inquiry concerning
20 refunds under this Act within 10 days after receiving the
21 inquiry. ~~The response shall include the date the inquiry was~~
22 ~~received, the file number assigned to the inquiry, and the name~~
23 ~~and telephone number of a person within the Department of~~
24 ~~Revenue whom the taxpayer may contact with further inquiries.~~

1 (Source: P.A. 89-89, eff. 6-30-95.)

2 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

3 Sec. 1501. Definitions.

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

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

17 (1.5) Captive real estate investment trust:

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

20 (i) that is considered a real estate
21 investment trust for the taxable year under
22 Section 856 of the Internal Revenue Code;

23 (ii) the certificates of beneficial interest
24 or shares of which are not regularly traded on an
25 established securities market; and

1 (iii) of which more than 50% of the voting
2 power or value of the beneficial interest or
3 shares, at any time during the last half of the
4 taxable year, is owned or controlled, directly,
5 indirectly, or constructively, by a single
6 corporation.

7 (B) The term "captive real estate investment
8 trust" does not include:

9 (i) a real estate investment trust of which
10 more than 50% of the voting power or value of the
11 beneficial interest or shares is owned or
12 controlled, directly, indirectly, or
13 constructively, by:

14 (a) a real estate investment trust, other
15 than a captive real estate investment trust;

16 (b) a person who is exempt from taxation
17 under Section 501 of the Internal Revenue Code,
18 and who is not required to treat income
19 received from the real estate investment trust
20 as unrelated business taxable income under
21 Section 512 of the Internal Revenue Code;

22 (c) a listed Australian property trust, if
23 no more than 50% of the voting power or value
24 of the beneficial interest or shares of that
25 trust, at any time during the last half of the
26 taxable year, is owned or controlled, directly

1 or indirectly, by a single person;

2 (d) an entity organized as a trust,
3 provided a listed Australian property trust
4 described in subparagraph (c) owns or
5 controls, directly or indirectly, or
6 constructively, 75% or more of the voting power
7 or value of the beneficial interests or shares
8 of such entity; or

9 (e) an entity that is organized outside of
10 the laws of the United States and that
11 satisfies all of the following criteria:

12 (1) at least 75% of the entity's total
13 asset value at the close of its taxable
14 year is represented by real estate assets
15 (as defined in Section 856(c)(5)(B) of the
16 Internal Revenue Code, thereby including
17 shares or certificates of beneficial
18 interest in any real estate investment
19 trust), cash and cash equivalents, and
20 U.S. Government securities;

21 (2) the entity is not subject to tax on
22 amounts that are distributed to its
23 beneficial owners or is exempt from
24 entity-level taxation;

25 (3) the entity distributes at least
26 85% of its taxable income (as computed in

1 the jurisdiction in which it is organized)
2 to the holders of its shares or
3 certificates of beneficial interest on an
4 annual basis;

5 (4) either (i) the shares or
6 beneficial interests of the entity are
7 regularly traded on an established
8 securities market or (ii) not more than 10%
9 of the voting power or value in the entity
10 is held, directly, indirectly, or
11 constructively, by a single entity or
12 individual; and

13 (5) the entity is organized in a
14 country that has entered into a tax treaty
15 with the United States; or

16 (ii) during its first taxable year for which it
17 elects to be treated as a real estate investment
18 trust under Section 856(c)(1) of the Internal
19 Revenue Code, a real estate investment trust the
20 certificates of beneficial interest or shares of
21 which are not regularly traded on an established
22 securities market, but only if the certificates of
23 beneficial interest or shares of the real estate
24 investment trust are regularly traded on an
25 established securities market prior to the earlier
26 of the due date (including extensions) for filing

1 its return under this Act for that first taxable
2 year or the date it actually files that return.

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

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

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

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

21 (5) Department. The term "Department" means the
22 Department of Revenue of this State.

23 (6) Director. The term "Director" means the Director of
24 Revenue of this State.

25 (7) Fiduciary. The term "fiduciary" means a guardian,
26 trustee, executor, administrator, receiver, or any person

1 acting in any fiduciary capacity for any person.

2 (8) Financial organization.

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

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

26 (C) For purposes of subparagraph (A) of this

1 paragraph, the term "sales finance company" has the
2 meaning provided in the following item (i) or (ii):

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

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

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

23 (c) the outstanding balance of a contract
24 or agreement described in provisions (a) or (b)
25 of this item (i).

26 A customer receivable need not provide for

1 payment of interest on deferred payments. A sales
2 finance company may purchase a customer receivable
3 from, or make a loan secured by a customer
4 receivable to, the seller in the original
5 transaction or to a person who purchased the
6 customer receivable directly or indirectly from
7 that seller.

8 (ii) A corporation meeting each of the
9 following criteria:

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

15 (b) more than 50% of the gross income of
16 the corporation for the taxable year must be
17 interest income derived from qualifying loans.
18 A "qualifying loan" is a loan made to a member
19 of the corporation's affiliated group that
20 originates customer receivables (within the
21 meaning of item (i)) or to whom customer
22 receivables originated by a member of the
23 affiliated group have been transferred, to the
24 extent the average outstanding balance of
25 loans from that corporation to members of its
26 affiliated group during the taxable year do not

1 exceed the limitation amount for that
2 corporation. The "limitation amount" for a
3 corporation is the average outstanding
4 balances during the taxable year of customer
5 receivables (within the meaning of item (i))
6 originated by all members of the affiliated
7 group. If the average outstanding balances of
8 the loans made by a corporation to members of
9 its affiliated group exceed the limitation
10 amount, the interest income of that
11 corporation from qualifying loans shall be
12 equal to its interest income from loans to
13 members of its affiliated groups times a
14 fraction equal to the limitation amount
15 divided by the average outstanding balances of
16 the loans made by that corporation to members
17 of its affiliated group;

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

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

7 This amendatory Act of the 91st General Assembly is
8 declaratory of existing law.

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

22 (E) For all tax years beginning on or before
23 December 31, 1996, a taxpayer that falls within the
24 definition of a "financial organization" under
25 subparagraphs (B) or (C) of this paragraph, but who
26 does not fall within the definition of a "financial

1 organization" under the Proposed Regulations issued by
2 the Department of Revenue on July 19, 1996, may
3 irrevocably elect to apply the Proposed Regulations
4 for all of those years as though the Proposed
5 Regulations had been lawfully promulgated, adopted,
6 and in effect for all of those years. For purposes of
7 applying subparagraphs (B) or (C) of this paragraph to
8 all of those years, the election allowed by this
9 subparagraph applies only to the taxpayer making the
10 election and to those members of the taxpayer's unitary
11 business group who are ordinarily required to
12 apportion business income under the same subsection of
13 Section 304 of this Act as the taxpayer making the
14 election. No election allowed by this subparagraph
15 shall be made under a claim filed under subsection (d)
16 of Section 909 more than 30 days after the effective
17 date of this amendatory Act of 1996.

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

1 depreciation allowed under Section 167 of the Internal
2 Revenue Code.

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

6 (9.5) Fixed place of business. The term "fixed place of
7 business" has the same meaning as that term is given in
8 Section 864 of the Internal Revenue Code and the related
9 Treasury regulations.

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

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

18 (11.5) Investment partnership.

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

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

1 equipment reasonably necessary to carry on its
2 activities as an investment partnership;

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

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

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

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

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

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

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

23 (v) repurchase agreements and loan
24 participations;

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

1 currencies;

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

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

10 (ix) regulated futures contracts;

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

19 (xi) derivatives; and

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

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

26 (A) arithmetic errors or incorrect computations on

1 the return or supporting schedules;

2 (B) entries on the wrong lines;

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

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

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

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

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

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

1 The term "partnership" includes any entity, including
2 a limited liability company formed under the Illinois
3 Limited Liability Company Act, classified as a partnership
4 for federal income tax purposes.

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

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

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

1 officer, director, or agent of a limited liability company
2 who in such capacity commits an offense specified in
3 Section 1301 and 1302.

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

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

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

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

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

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

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

26 (21) Sales. The term "sales" means all gross receipts

1 of the taxpayer not allocated under Sections 301, 302 and
2 303.

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

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

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

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

1 forth in the laws of the United States or regulations of
2 the Board of Governors of the Federal Reserve System.

3 (26) Income Tax Return Preparer.

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

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

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

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

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

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

1 directly or indirectly affects the tax liability
2 of the taxpayer whose claims he or she is
3 preparing.

4 (27) Unitary business group.

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

1 in each case, involve the division of the member's
2 property, payroll, or revenue miles in the United
3 States, insurance premiums on property or risk in the
4 United States, or financial organization business
5 income from sources within the United States, as the
6 case may be, by the respective worldwide figures for
7 such items. Common ownership in the case of
8 corporations is the direct or indirect control or
9 ownership of more than 50% of the outstanding voting
10 stock of the persons carrying on unitary business
11 activity. Unitary business activity can ordinarily be
12 illustrated where the activities of the members are:
13 (1) in the same general line (such as manufacturing,
14 wholesaling, retailing of tangible personal property,
15 insurance, transportation or finance); or (2) are
16 steps in a vertically structured enterprise or process
17 (such as the steps involved in the production of
18 natural resources, which might include exploration,
19 mining, refining, and marketing); and, in either
20 instance, the members are functionally integrated
21 through the exercise of strong centralized management
22 (where, for example, authority over such matters as
23 purchasing, financing, tax compliance, product line,
24 personnel, marketing and capital investment is not
25 left to each member).

26 (B) In no event, shall ~~however, will~~ any unitary

1 business group include members which are ordinarily
2 required to apportion business income under different
3 subsections of Section 304 except that for tax years
4 ending on or after December 31, 1987 this prohibition
5 shall not apply to a holding company that would
6 otherwise be a member of a unitary business group with
7 taxpayers that apportion business income under any of
8 subsections (b), (c), or (d) of Section 304 ~~unitary~~
9 ~~business group composed of one or more taxpayers all of~~
10 ~~which apportion business income pursuant to subsection~~
11 ~~(b) of Section 304, or all of which apportion business~~
12 ~~income pursuant to subsection (d) of Section 304, and a~~
13 ~~holding company of such single-factor taxpayers (see~~
14 ~~definition of "financial organization" for rule~~
15 ~~regarding holding companies of financial~~
16 ~~organizations)~~. If a unitary business group would, but
17 for the preceding sentence, include members that are
18 ordinarily required to apportion business income under
19 different subsections of Section 304, then for each
20 subsection of Section 304 for which there are two or
21 more members, there shall be a separate unitary
22 business group composed of such members. For purposes
23 of the preceding two sentences, a member is "ordinarily
24 required to apportion business income" under a
25 particular subsection of Section 304 if it would be
26 required to use the apportionment method prescribed by

1 such subsection except for the fact that it derives
2 business income solely from Illinois. As used in this
3 paragraph, the phrase "United States" means only the 50
4 states and the District of Columbia, but does not
5 include any territory or possession of the United
6 States or any area over which the United States has
7 asserted jurisdiction or claimed exclusive rights with
8 respect to the exploration for or exploitation of
9 natural resources.

10 (C) Holding companies.

11 (i) For purposes of this subparagraph, a
12 "holding company" is a corporation (other than a
13 corporation that is a financial organization under
14 paragraph (8) of this subsection (a) of Section
15 1501 because it is a bank holding company under the
16 provisions of the Bank Holding Company Act of 1956
17 (12 U.S.C. 1841, et seq.) or because it is owned by
18 a bank or a bank holding company) that owns a
19 controlling interest in one or more other
20 taxpayers ("controlled taxpayers"); that, during
21 the period that includes the taxable year and the 2
22 immediately preceding taxable years or, if the
23 corporation was formed during the current or
24 immediately preceding taxable year, the taxable
25 years in which the corporation has been in
26 existence, derived substantially all its gross

1 income from dividends, interest, rents, royalties,
2 fees or other charges received from controlled
3 taxpayers for the provision of services, and gains
4 on the sale or other disposition of interests in
5 controlled taxpayers or in property leased or
6 licensed to controlled taxpayers or used by the
7 taxpayer in providing services to controlled
8 taxpayers; and that incurs no substantial expenses
9 other than expenses (including interest and other
10 costs of borrowing) incurred in connection with
11 the acquisition and holding of interests in
12 controlled taxpayers and in the provision of
13 services to controlled taxpayers or in the leasing
14 or licensing of property to controlled taxpayers.

15 (ii) The income of a holding company which is a
16 member of more than one unitary business group
17 shall be included in each unitary business group of
18 which it is a member on a pro rata basis, by
19 including in each unitary business group that
20 portion of the base income of the holding company
21 that bears the same proportion to the total base
22 income of the holding company as the gross receipts
23 of the unitary business group bears to the combined
24 gross receipts of all unitary business groups (in
25 both cases without regard to the holding company)
26 or on any other reasonable basis, consistently

1 applied.

2 (iii) A holding company shall apportion its
3 business income under the subsection of Section
4 304 used by the other members of its unitary
5 business group. The apportionment factors of a
6 holding company which would be a member of more
7 than one unitary business group shall be included
8 with the apportionment factors of each unitary
9 business group of which it is a member on a pro
10 rata basis using the same method used in clause
11 (ii).

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

14 (D) If including the base income and factors of a
15 holding company in more than one unitary business group
16 under subparagraph (C) does not fairly reflect the
17 degree of integration between the holding company and
18 one or more of the unitary business groups, the
19 dependence of the holding company and one or more of
20 the unitary business groups upon each other, or the
21 contributions between the holding company and one or
22 more of the unitary business groups, the holding
23 company may petition the Director, under the
24 procedures provided under Section 304(f), for
25 permission to include all base income and factors of
26 the holding company only with members of a unitary

1 business group apportioning their business income
2 under one subsection of subsections (a), (b), (c), or
3 (d) of Section 304. If the petition is granted, the
4 holding company shall be included in a unitary business
5 group only with persons apportioning their business
6 income under the selected subsection of Section 304
7 until the Director grants a petition of the holding
8 company either to be included in more than one unitary
9 business group under subparagraph (C) or to include its
10 base income and factors only with members of a unitary
11 business group apportioning their business income
12 under a different subsection of Section 304.

13 (E) If the unitary business group members'
14 accounting periods differ, the common parent's
15 accounting period or, if there is no common parent, the
16 accounting period of the member that is expected to
17 have, on a recurring basis, the greatest Illinois
18 income tax liability must be used to determine whether
19 to use the apportionment method provided in subsection
20 (a) or subsection (h) of Section 304. The prohibition
21 against membership in a unitary business group for
22 taxpayers ordinarily required to apportion income
23 under different subsections of Section 304 does not
24 apply to taxpayers required to apportion income under
25 subsection (a) and subsection (h) of Section 304. The
26 provisions of this amendatory Act of 1998 apply to tax

1 years ending on or after December 31, 1998.

2 (28) Subchapter S corporation. The term "Subchapter S
3 corporation" means a corporation for which there is in
4 effect an election under Section 1362 of the Internal
5 Revenue Code, or for which there is a federal election to
6 opt out of the provisions of the Subchapter S Revision Act
7 of 1982 and have applied instead the prior federal
8 Subchapter S rules as in effect on July 1, 1982.

9 (30) Foreign person. The term "foreign person" means
10 any person who is a nonresident alien individual and any
11 nonindividual entity, regardless of where created or
12 organized, whose business activity outside the United
13 States is 80% or more of the entity's total business
14 activity.

15 (b) Other definitions.

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

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

21 (B) Words importing the plural include the
22 singular; and

23 (C) Words importing the masculine gender include
24 the feminine as well.

25 (2) "Company" or "association" as including successors

1 and assigns. The word "company" or "association", when used
2 in reference to a corporation, shall be deemed to embrace
3 the words "successors and assigns of such company or
4 association", and in like manner as if these last-named
5 words, or words of similar import, were expressed.

6 (3) Other terms. Any term used in any Section of this
7 Act with respect to the application of, or in connection
8 with, the provisions of any other Section of this Act shall
9 have the same meaning as in such other Section.

10 (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08;
11 96-641, eff. 8-24-09.)

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

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Statutes amended in order of appearance

3	35 ILCS 5/203	from Ch. 120, par. 2-203
4	35 ILCS 5/204	from Ch. 120, par. 2-204
5	35 ILCS 5/205	from Ch. 120, par. 2-205
6	35 ILCS 5/207	from Ch. 120, par. 2-207
7	35 ILCS 5/214	
8	35 ILCS 5/220	
9	35 ILCS 5/304	from Ch. 120, par. 3-304
10	35 ILCS 5/502	from Ch. 120, par. 5-502
11	35 ILCS 5/506	from Ch. 120, par. 5-506
12	35 ILCS 5/601	from Ch. 120, par. 6-601
13	35 ILCS 5/701	from Ch. 120, par. 7-701
14	35 ILCS 5/702	from Ch. 120, par. 7-702
15	35 ILCS 5/703	from Ch. 120, par. 7-703
16	35 ILCS 5/704A	
17	35 ILCS 5/709.5	
18	35 ILCS 5/804	from Ch. 120, par. 8-804
19	35 ILCS 5/909	from Ch. 120, par. 9-909
20	35 ILCS 5/911	from Ch. 120, par. 9-911
21	35 ILCS 5/1002	from Ch. 120, par. 10-1002
22	35 ILCS 5/1101	from Ch. 120, par. 11-1101
23	35 ILCS 5/1402	from Ch. 120, par. 14-1402
24	35 ILCS 5/1405.4	
25	35 ILCS 5/1501	from Ch. 120, par. 15-1501