

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24 withdrawn by the taxpayer in the taxable year from a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, for taxable years
4 ending on or after December 31, 2008, any amount
5 included in gross income under Section 87 of the
6 Internal Revenue Code; the provisions of this
7 subparagraph are exempt from the provisions of Section
8 250;

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

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

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 or of any itemized deduction
26 taken from adjusted gross income in the computation of

1 taxable income for restoration of substantial amounts
2 held under claim of right for the taxable year ~~of 1986~~;

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

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

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

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

25 (U) For one taxable year beginning on or after
26 January 1, 1994, an amount equal to the total amount of

1 tax imposed and paid under subsections (a) and (b) of
2 Section 201 of this Act on grant amounts received by
3 the taxpayer under the Nursing Home Grant Assistance
4 Act during the taxpayer's taxable years 1992 and 1993;

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

1 long-term care insurance premiums paid by the taxpayer
2 times a number that represents the fractional
3 percentage of eligible medical expenses under Section
4 213 of the Internal Revenue Code of 1986 not actually
5 deducted on the taxpayer's federal income tax return;

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

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

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

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

1 of \$10,000 contributed in the taxable year to (i) a
2 College Savings Pool account under Section 16.5 of the
3 State Treasurer Act or (ii) the Illinois Prepaid
4 Tuition Trust Fund, except that amounts excluded from
5 gross income under Section 529(c)(3)(C)(i) of the
6 Internal Revenue Code shall not be considered moneys
7 contributed under this subparagraph (Y). For purposes
8 of this subparagraph, contributions made by an
9 employer on behalf of an employee, or matching
10 contributions made by an employee, shall be treated as
11 made by the employee. This subparagraph (Y) is exempt
12 from the provisions of Section 250;

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

19 (1) "y" equals the amount of the depreciation
20 deduction taken for the taxable year on the
21 taxpayer's federal income tax return on property
22 for which the bonus depreciation deduction was
23 taken in any year under subsection (k) of Section
24 168 of the Internal Revenue Code, but not including
25 the bonus depreciation deduction;

26 (2) for taxable years ending on or before

1 December 31, 2005, "x" equals "y" multiplied by 30
2 and then divided by 70 (or "y" multiplied by
3 0.429); and

4 (3) for taxable years ending after December
5 31, 2005:

6 (i) for property on which a bonus
7 depreciation deduction of 30% of the adjusted
8 basis was taken, "x" equals "y" multiplied by
9 30 and then divided by 70 (or "y" multiplied by
10 0.429); and

11 (ii) for property on which a bonus
12 depreciation deduction of 50% of the adjusted
13 basis was taken, "x" equals "y" multiplied by
14 1.0.

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

23 (AA) 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-15), then

1 an amount equal to that addition modification.

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

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

12 This subparagraph (AA) is exempt from the
13 provisions of Section 250;

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

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

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

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

1 is exempt from the provisions of Section 250;

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

23 (FF) An amount equal to any amount awarded to the
24 taxpayer during the taxable year by the Court of Claims
25 under subsection (c) of Section 8 of the Court of
26 Claims Act for time unjustly served in a State prison.

1 This subparagraph (FF) is exempt from the provisions of
2 Section 250; ~~and~~.

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

18 (b) Corporations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (E-12) An 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 the foreign person's business activity outside
8 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 (E-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(b)(2)(E-12) of
25 this Act. As used in this subparagraph, the term
26 "intangible expenses and costs" includes (1) expenses,

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

1 Section 203(b) (2) (E-13) of this Act;

2 (E-15) For taxable years beginning after December
3 31, 2008, any deduction for dividends paid by a captive
4 real estate investment trust that is allowed to a real
5 estate investment trust under Section 857(b) (2) (B) of
6 the Internal Revenue Code for dividends paid;

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

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

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

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

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

23 (I) With the exception of any amounts subtracted
24 under subparagraph (J), an amount equal to the sum of
25 all amounts disallowed as deductions by (i) Sections
26 171(a) (2), and 265(a) (2) and amounts disallowed as

1 interest expense by Section 291(a)(3) of the Internal
2 Revenue Code, ~~as now or hereafter amended~~, and all
3 amounts of expenses allocable to interest and
4 disallowed as deductions by Section 265(a)(1) of the
5 Internal Revenue Code, ~~as now or hereafter amended~~; and
6 (ii) for taxable years ending on or after August 13,
7 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
8 832(b)(5)(B)(i) of the Internal Revenue Code, plus,
9 for tax years ending on or after December 31, 2011,
10 amounts disallowed as deductions by Section 45G(e)(3)
11 of the Internal Revenue Code and, for taxable years
12 ending on or after December 31, 2008, any amount
13 included in gross income under Section 87 of the
14 Internal Revenue Code and the policyholders' share of
15 tax-exempt interest of a life insurance company under
16 Section 807(a)(2)(B) of the Internal Revenue Code (in
17 the case of a life insurance company with gross income
18 from a decrease in reserves for the tax year) or
19 Section 807(b)(1)(B) of the Internal Revenue Code (in
20 the case of a life insurance company allowed a
21 deduction for an increase in reserves for the tax
22 year); the provisions of this subparagraph are exempt
23 from the provisions of Section 250;

24 (J) An amount equal to all amounts included in such
25 total which are exempt from taxation by this State
26 either by reason of its statutes or Constitution or by

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

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

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

26 (M) For any taxpayer that is a financial

1 organization within the meaning of Section 304(c) of
2 this Act, an amount included in such total as interest
3 income from a loan or loans made by such taxpayer to a
4 borrower, to the extent that such a loan is secured by
5 property which is eligible for the Enterprise Zone
6 Investment Credit or the River Edge Redevelopment Zone
7 Investment Credit. To determine the portion of a loan
8 or loans that is secured by property eligible for a
9 Section 201(f) investment credit to the borrower, the
10 entire principal amount of the loan or loans between
11 the taxpayer and the borrower should be divided into
12 the basis of the Section 201(f) investment credit
13 property which secures the loan or loans, using for
14 this purpose the original basis of such property on the
15 date that it was placed in service in the Enterprise
16 Zone or the River Edge Redevelopment Zone. The
17 subtraction modification available to taxpayer in any
18 year under this subsection shall be that portion of the
19 total interest paid by the borrower with respect to
20 such loan attributable to the eligible property as
21 calculated under the previous sentence. This
22 subparagraph (M) is exempt from the provisions of
23 Section 250;

24 (M-1) For any taxpayer that is a financial
25 organization within the meaning of Section 304(c) of
26 this Act, an amount included in such total as interest

1 income from a loan or loans made by such taxpayer to a
2 borrower, to the extent that such a loan is secured by
3 property which is eligible for the High Impact Business
4 Investment Credit. To determine the portion of a loan
5 or loans that is secured by property eligible for a
6 Section 201(h) 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(h) 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 a federally
13 designated Foreign Trade Zone or Sub-Zone located in
14 Illinois. No taxpayer that is eligible for the
15 deduction provided in subparagraph (M) of paragraph
16 (2) of this subsection shall be eligible for the
17 deduction provided under this subparagraph (M-1). The
18 subtraction modification available to taxpayers in any
19 year under this subsection shall be that portion of the
20 total interest paid by the borrower with respect to
21 such loan attributable to the eligible property as
22 calculated under the previous sentence;

23 (N) Two times any contribution made during the
24 taxable year to a designated zone organization to the
25 extent that the contribution (i) qualifies as a
26 charitable contribution under subsection (c) of

1 Section 170 of the Internal Revenue Code and (ii) must,
2 by its terms, be used for a project approved by the
3 Department of Commerce and Economic Opportunity under
4 Section 11 of the Illinois Enterprise Zone Act or under
5 Section 10-10 of the River Edge Redevelopment Zone Act.
6 This subparagraph (N) is exempt from the provisions of
7 Section 250;

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

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

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

19 (Q) 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 ~~of 1986~~;

24 (R) On and after July 20, 1999, in the case of an
25 attorney-in-fact with respect to whom an interinsurer
26 or a reciprocal insurer has made the election under

1 Section 835 of the Internal Revenue Code, 26 U.S.C.
2 835, an amount equal to the excess, if any, of the
3 amounts paid or incurred by that interinsurer or
4 reciprocal insurer in the taxable year to the
5 attorney-in-fact over the deduction allowed to that
6 interinsurer or reciprocal insurer with respect to the
7 attorney-in-fact under Section 835(b) of the Internal
8 Revenue Code for the taxable year; the provisions of
9 this subparagraph are exempt from the provisions of
10 Section 250;

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

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

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

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

12 (3) for taxable years ending after December
13 31, 2005:

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

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

23 The aggregate amount deducted under this
24 subparagraph in all taxable years for any one piece of
25 property may not exceed the amount of the bonus
26 depreciation deduction taken on that property on the

1 taxpayer's federal income tax return under subsection
2 (k) of Section 168 of the Internal Revenue Code. This
3 subparagraph (T) is exempt from the provisions of
4 Section 250;

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

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

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

20 This subparagraph (U) is exempt from the
21 provisions of Section 250;

22 (V) The amount of: (i) any interest income (net of
23 the deductions allocable thereto) taken into account
24 for the taxable year with respect to a transaction with
25 a taxpayer that is required to make an addition
26 modification with respect to such transaction under

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

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

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

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

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304, but not to exceed the
4 addition modification required to be made for the same
5 taxable year under Section 203(b)(2)(E-13) for
6 intangible expenses and costs paid, accrued, or
7 incurred, directly or indirectly, to the same foreign
8 person. This subparagraph (X) is exempt from the
9 provisions of Section 250; ~~and~~

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

25 (Z) The difference between the nondeductible
26 controlled foreign corporation dividends under Section

1 965(e)(3) of the Internal Revenue Code over the taxable
2 income of the taxpayer, computed without regard to
3 Section 965(e)(2)(A) of the Internal Revenue Code, and
4 without regard to any net operating loss deduction.
5 This subparagraph (Z) is exempt from the provisions of
6 Section 250.

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

15 (c) Trusts and estates.

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

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

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

1 in the computation of taxable income;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 included in gross income under Section 78 of the
2 Internal Revenue Code) with respect to the stock of the
3 same person to whom the interest was paid, accrued, or
4 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 (G-13) 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 pursuant to Sections 951 through 964 of the
20 Internal Revenue Code and amounts included in gross
21 income under Section 78 of the Internal Revenue Code)
22 with respect to the stock of the same person to whom
23 the intangible expenses and costs were directly or
24 indirectly paid, incurred, or accrued. The preceding
25 sentence shall not apply to the extent that the same
26 dividends caused a reduction to the addition

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

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

22 (I) The valuation limitation amount;

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

26 (K) An amount equal to all amounts included in

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

11 (L) With the exception of any amounts subtracted
12 under subparagraph (K), an amount equal to the sum of
13 all amounts disallowed as deductions by (i) Sections
14 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
15 ~~as now or hereafter amended,~~ and all amounts of
16 expenses allocable to interest and disallowed as
17 deductions by Section 265(1) of the Internal Revenue
18 Code ~~of 1954, as now or hereafter amended;~~ and (ii) for
19 taxable years ending on or after August 13, 1999,
20 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
21 the Internal Revenue Code, plus, (iii) for taxable
22 years ending on or after December 31, 2011, Section
23 45G(e) (3) of the Internal Revenue Code and, for taxable
24 years ending on or after December 31, 2008, any amount
25 included in gross income under Section 87 of the
26 Internal Revenue Code; the provisions of this

1 subparagraph are exempt from the provisions of Section
2 250;

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

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

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

25 (P) An amount equal to the amount of the deduction
26 used to compute the federal income tax credit for

1 restoration of substantial amounts held under claim of
2 right for the taxable year pursuant to Section 1341 of
3 the Internal Revenue Code ~~of 1986~~;

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

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

11 (R) 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 (R) is exempt from the provisions of
20 Section 250;

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

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

1 addition modification. This subparagraph (T) is exempt
2 from the provisions of Section 250;

3 (U) An amount equal to the interest income taken
4 into account for the taxable year (net of the
5 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 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(c)(2)(G-12) for
20 interest paid, accrued, or incurred, directly or
21 indirectly, to the same person. This subparagraph (U)
22 is exempt from the provisions of Section 250; ~~and~~

23 (V) An amount equal to the income from intangible
24 property taken into account for the taxable year (net
25 of the deductions allocable thereto) with respect to
26 transactions with (i) a foreign person who would be a

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

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

25 (X) an amount equal to the refund included in such
26 total of any tax deducted for federal income tax

1 purposes, to the extent that deduction was added back
2 under subparagraph (F). This subparagraph (X) is
3 exempt from the provisions of Section 250; and

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

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

1 (d) Partnerships.

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

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

8 (A) An amount equal to all amounts paid or accrued
9 to the taxpayer as interest or dividends during the
10 taxable year to the extent excluded from gross income
11 in the computation of taxable income;

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

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

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 taxable income;

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

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

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

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

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

19 This paragraph shall not apply to the following:

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

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

1 incurred, directly or indirectly, to a person if
2 the taxpayer can establish, based on a
3 preponderance of the evidence, both of the
4 following:

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

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

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

21 (iv) an item of interest paid, accrued, or
22 incurred, directly or indirectly, to a person if
23 the taxpayer establishes by clear and convincing
24 evidence that the adjustments are unreasonable; or
25 if the taxpayer and the Director agree in writing
26 to the application or use of an alternative method

1 of apportionment under Section 304(f).

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

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

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

1 patent applications, trade names, trademarks, service
2 marks, copyrights, mask works, trade secrets, and
3 similar types of intangible assets;

4 This paragraph shall not apply to the following:

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

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

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

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

1 or

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

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

19 (D-9) For taxable years ending on or after December
20 31, 2008, an amount equal to the amount of insurance
21 premium expenses and costs otherwise allowed as a
22 deduction in computing base income, and that were paid,
23 accrued, or incurred, directly or indirectly, to a
24 person who would be a member of the same unitary
25 business group but for the fact that the person is
26 prohibited under Section 1501(a)(27) from being

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

19 (D-10) An amount equal to the credit allowable to
20 the taxpayer under Section 218(a) of this Act,
21 determined without regard to Section 218(c) of this
22 Act;

23 and by deducting from the total so obtained the following
24 amounts:

25 (E) The valuation limitation amount;

26 (F) An amount equal to the amount of any tax

1 imposed by this Act which was refunded to the taxpayer
2 and included in such total for the taxable year;

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

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

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

1 501(a) of the Internal Revenue Code; this subparagraph
2 (I) is exempt from the provisions of Section 250;

3 (J) With the exception of any amounts subtracted
4 under subparagraph (G), an amount equal to the sum of
5 all amounts disallowed as deductions by (i) Sections
6 171(a) (2), and 265(2) of the Internal Revenue Code ~~of~~
7 ~~1954, as now or hereafter amended,~~ and all amounts of
8 expenses allocable to interest and disallowed as
9 deductions by Section 265(1) of the Internal Revenue
10 Code, ~~as now or hereafter amended;~~ and (ii) for taxable
11 years ending on or after August 13, 1999, Sections
12 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
13 Internal Revenue Code, plus, (iii) for taxable years
14 ending on or after December 31, 2011, Section 45G(e) (3)
15 of the Internal Revenue Code and, for taxable years
16 ending on or after December 31, 2008, any amount
17 included in gross income under Section 87 of the
18 Internal Revenue Code; the provisions of this
19 subparagraph are exempt from the provisions of Section
20 250;

21 (K) An amount equal to those dividends included in
22 such total which were paid by a corporation which
23 conducts business operations in an Enterprise Zone or
24 zones created under the Illinois Enterprise Zone Act,
25 enacted by the 82nd General Assembly, or a River Edge
26 Redevelopment Zone or zones created under the River

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 incurred, directly or indirectly, to the same person.

2 This subparagraph (S) is exempt from Section 250; ~~and~~ ~~—~~

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

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

19 (1) In general. Subject to the provisions of paragraph
20 (2) and subsection (b) (3), for purposes of this Section
21 and Section 803(e), a taxpayer's gross income, adjusted
22 gross income, or taxable income for the taxable year shall
23 mean the amount of gross income, adjusted gross income or
24 taxable income properly reportable for federal income tax
25 purposes for the taxable year under the provisions of the

1 Internal Revenue Code. Taxable income may be less than
2 zero. However, for taxable years ending on or after
3 December 31, 1986, net operating loss carryforwards from
4 taxable years ending prior to December 31, 1986, may not
5 exceed the sum of federal taxable income for the taxable
6 year before net operating loss deduction, plus the excess
7 of addition modifications over subtraction modifications
8 for the taxable year. For taxable years ending prior to
9 December 31, 1986, taxable income may never be an amount in
10 excess of the net operating loss for the taxable year as
11 defined in subsections (c) and (d) of Section 172 of the
12 Internal Revenue Code, provided that when taxable income of
13 a corporation (other than a Subchapter S corporation),
14 trust, or estate is less than zero and addition
15 modifications, other than those provided by subparagraph
16 (E) of paragraph (2) of subsection (b) for corporations or
17 subparagraph (E) of paragraph (2) of subsection (c) for
18 trusts and estates, exceed subtraction modifications, an
19 addition modification must be made under those
20 subparagraphs for any other taxable year to which the
21 taxable income less than zero (net operating loss) is
22 applied under Section 172 of the Internal Revenue Code or
23 under subparagraph (E) of paragraph (2) of this subsection
24 (e) applied in conjunction with Section 172 of the Internal
25 Revenue Code.

26 (2) Special rule. For purposes of paragraph (1) of this

1 subsection, the taxable income properly reportable for
2 federal income tax purposes shall mean:

3 (A) Certain life insurance companies. In the case
4 of a life insurance company subject to the tax imposed
5 by Section 801 of the Internal Revenue Code, life
6 insurance company taxable income, plus the amount of
7 distribution from pre-1984 policyholder surplus
8 accounts as calculated under Section 815a of the
9 Internal Revenue Code;

10 (B) Certain other insurance companies. In the case
11 of mutual insurance companies subject to the tax
12 imposed by Section 831 of the Internal Revenue Code,
13 insurance company taxable income;

14 (C) Regulated investment companies. In the case of
15 a regulated investment company subject to the tax
16 imposed by Section 852 of the Internal Revenue Code,
17 investment company taxable income;

18 (D) Real estate investment trusts. In the case of a
19 real estate investment trust subject to the tax imposed
20 by Section 857 of the Internal Revenue Code, real
21 estate investment trust taxable income;

22 (E) Consolidated corporations. In the case of a
23 corporation which is a member of an affiliated group of
24 corporations filing a consolidated income tax return
25 for the taxable year for federal income tax purposes,
26 taxable income determined as if such corporation had

1 filed a separate return for federal income tax purposes
2 for the taxable year and each preceding taxable year
3 for which it was a member of an affiliated group. For
4 purposes of this subparagraph, the taxpayer's separate
5 taxable income shall be determined as if the election
6 provided by Section 243(b) (2) of the Internal Revenue
7 Code had been in effect for all such years;

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

1 amended return or returns, as allowed under this Act,
2 to provide that the election shall be effective for
3 losses incurred or carried forward for taxable years
4 occurring prior to the date of the election. Once made,
5 the election may only be revoked upon approval of the
6 Director. The Department shall adopt rules setting
7 forth requirements for documenting the elections and
8 any resulting Illinois net loss and the standards to be
9 used by the Director in evaluating requests to revoke
10 elections. Public Act 96-932 ~~This amendatory Act of the~~
11 ~~96th General Assembly~~ is declaratory of existing law;

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

1 Subchapter S rules as in effect on July 1, 1982; and
2 (H) Partnerships. In the case of a partnership,
3 taxable income determined in accordance with Section
4 703 of the Internal Revenue Code, except that taxable
5 income shall take into account those items which are
6 required by Section 703(a)(1) to be separately stated
7 but which would be taken into account by an individual
8 in calculating his taxable income.

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

1 (f) Valuation limitation amount.

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

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

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

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

19 (A) If the fair market value of property referred
20 to in paragraph (1) was readily ascertainable on August
21 1, 1969, the pre-August 1, 1969 appreciation amount for
22 such property is the lesser of (i) the excess of such
23 fair market value over the taxpayer's basis (for
24 determining gain) for such property on that date
25 (determined under the Internal Revenue Code as in
26 effect on that date), or (ii) the total gain realized

1 and reportable for federal income tax purposes in
2 respect of the sale, exchange or other disposition of
3 such property.

4 (B) If the fair market value of property referred
5 to in paragraph (1) was not readily ascertainable on
6 August 1, 1969, the pre-August 1, 1969 appreciation
7 amount for such property is that amount which bears the
8 same ratio to the total gain reported in respect of the
9 property for federal income tax purposes for the
10 taxable year, as the number of full calendar months in
11 that part of the taxpayer's holding period for the
12 property ending July 31, 1969 bears to the number of
13 full calendar months in the taxpayer's entire holding
14 period for the property.

15 (C) The Department shall prescribe such
16 regulations as may be necessary to carry out the
17 purposes of this paragraph.

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

21 (h) Legislative intention. Except as expressly provided by
22 this Section there shall be no modifications or limitations on
23 the amounts of income, gain, loss or deduction taken into
24 account in determining gross income, adjusted gross income or

1 taxable income for federal income tax purposes for the taxable
2 year, or in the amount of such items entering into the
3 computation of base income and net income under this Act for
4 such taxable year, whether in respect of property values as of
5 August 1, 1969 or otherwise.

6 (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,
7 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
8 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09;
9 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff.
10 8-14-09; 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935,
11 eff. 6-21-10; 96-1214, eff. 7-22-10; revised 9-16-10.)

12 (35 ILCS 5/204) (from Ch. 120, par. 2-204)

13 Sec. 204. Standard Exemption.

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

21 (b) Basic amount. For the purpose of subsection (a) of this
22 Section, except as provided by subsection (a) of Section 205
23 and in this subsection, each taxpayer shall be allowed a basic
24 amount of \$1000, except that for corporations the basic amount
25 shall be zero for tax years ending on or after December 31,

1 2003, and for individuals the basic amount shall be:

2 (1) for taxable years ending on or after December 31,
3 1998 and prior to December 31, 1999, \$1,300;

4 (2) for taxable years ending on or after December 31,
5 1999 and prior to December 31, 2000, \$1,650;

6 (3) for taxable years ending on or after December 31,
7 2000, \$2,000.

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

13 (c) Additional amount for individuals. In the case of an
14 individual taxpayer, there shall be allowed for the purpose of
15 subsection (a), in addition to the basic amount provided by
16 subsection (b), an additional exemption equal to the basic
17 amount for each exemption in excess of one allowable to such
18 individual taxpayer for the taxable year under Section 151 of
19 the Internal Revenue Code.

20 (d) Additional exemptions for an individual taxpayer and
21 his or her spouse. In the case of an individual taxpayer and
22 his or her spouse, he or she shall each be allowed additional
23 exemptions as follows:

24 (1) Additional exemption for taxpayer or spouse 65
25 years of age or older.

26 (A) For taxpayer. An additional exemption of

1 \$1,000 for the taxpayer if he or she has attained the
2 age of 65 before the end of the taxable year.

3 (B) For spouse when a joint return is not filed. An
4 additional exemption of \$1,000 for the spouse of the
5 taxpayer if a joint return is not made by the taxpayer
6 and his spouse, and if the spouse has attained the age
7 of 65 before the end of such taxable year, and, for the
8 calendar year in which the taxable year of the taxpayer
9 begins, has no gross income and is not the dependent of
10 another taxpayer.

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

13 (A) For taxpayer. An additional exemption of
14 \$1,000 for the taxpayer if he or she is blind at the
15 end of the taxable year.

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

1 death.

2 (C) Blindness defined. For purposes of this
3 subsection, an individual is blind only if his or her
4 central visual acuity does not exceed 20/200 in the
5 better eye with correcting lenses, or if his or her
6 visual acuity is greater than 20/200 but is accompanied
7 by a limitation in the fields of vision such that the
8 widest diameter of the visual fields subtends an angle
9 no greater than 20 degrees.

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

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

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

15 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

16 Sec. 205. Exempt organizations.

17 (a) Charitable, etc. organizations. The base income of an
18 organization which is exempt from the federal income tax by
19 reason ~~of Section 501(a)~~ of the Internal Revenue Code shall not
20 be determined under section 203 of this Act, but shall be its
21 unrelated business taxable income as determined under section
22 512 of the Internal Revenue Code, without any deduction for the
23 tax imposed by this Act. The standard exemption provided by
24 section 204 of this Act shall not be allowed in determining the
25 net income of an organization to which this subsection applies.

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

20 (c) Subchapter S corporations. A Subchapter S corporation
21 shall not be subject to the tax imposed by subsection 201 (a)
22 and (b) of this Act but shall be subject to the replacement tax
23 imposed by subsection 201 (c) and (d) of this Act and shall
24 file such returns and other information at such time and in
25 such manner as may be required under Article 5 of this Act.

26 (d) Combat zone, terrorist attack, and certain other deaths

1 ~~death~~. An individual relieved from the federal income tax for
2 any taxable year by reason of section 692 of the Internal
3 Revenue Code shall not be subject to the tax imposed by this
4 Act for such taxable year.

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

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

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

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

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

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

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

3 Sec. 207. Net Losses.

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

10 (1) for any taxable year ending prior to December 31,
11 1999, such loss shall be allowed as a carryover or
12 carryback deduction in the manner allowed under Section 172
13 of the Internal Revenue Code;

14 (2) for any taxable year ending on or after December
15 31, 1999 and prior to December 31, 2003, such loss shall be
16 allowed as a carryback to each of the 2 taxable years
17 preceding the taxable year of such loss and shall be a net
18 operating loss carryover to each of the 20 taxable years
19 following the taxable year of such loss; and

20 (3) for any taxable year ending on or after December
21 31, 2003, such loss shall be allowed as a net operating
22 loss carryover to each of the 12 taxable years following
23 the taxable year of such loss, except as provided in
24 subsection (d).

25 (a-5) Election to relinquish carryback and order of

1 application of losses.

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

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

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

24 (c) Notwithstanding any other provision of this Act, for
25 each taxable year ending on or after December 31, 2008, for
26 purposes of computing the loss for the taxable year under

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

21 (d) In the case of a corporation (other than a Subchapter S
22 corporation), no carryover deduction shall be allowed under
23 this Section for any taxable year ending after December 31,
24 2010 and prior to December 31, 2014; provided that, for
25 purposes of determining the taxable years to which a net loss
26 may be carried under subsection (a) of this Section, no taxable

1 year for which a deduction is disallowed under this subsection
2 shall be counted.

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

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

10 (2) minus an amount equal to the amount computed under
11 subsection (a), without regard to this subsection (e),
12 minus the amount that would be computed under subsection
13 (a) if the taxpayer's federal taxable income were computed
14 without regard to Section 860E of the Internal Revenue Code
15 and without regard to this subsection (e).

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

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

19 (35 ILCS 5/214)

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

21 (a) Beginning with taxable years ending on or after
22 December 31, 2001 and until the taxable year ending on December
23 31, 2016, a taxpayer who makes a donation under Section 7.28 of
24 the Illinois Housing Development Act is entitled to a credit
25 against the tax imposed by subsections (a) and (b) of Section

1 201 in an amount equal to 50% of the value of the donation.
2 Partners, shareholders of subchapter S corporations, and
3 owners of limited liability companies (if the limited liability
4 company is treated as a partnership for purposes of federal and
5 State income taxation) are entitled to a credit under this
6 Section to be determined in accordance with the determination
7 of income and distributive share of income under Sections 702
8 and 703 and subchapter S of the Internal Revenue Code. Persons
9 or entities not subject to the tax imposed by subsections (a)
10 and (b) of Section 201 and who make a donation under Section
11 7.28 of the Illinois Housing Development Act are entitled to a
12 credit as described in this subsection and may transfer that
13 credit as described in subsection (c).

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

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

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

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

9 (35 ILCS 5/220)

10 Sec. 220. Angel investment credit.

11 (a) As used in this Section:

12 "Applicant" means a corporation, partnership, limited
13 liability company, or a natural person that makes an investment
14 in a qualified new business venture. The term "applicant" does
15 not include a corporation, partnership, limited liability
16 company, or a natural person who has a direct or indirect
17 ownership interest of at least 51% in the profits, capital, or
18 value of the investment or a related member.

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

21 "Department" means the Department of Commerce and Economic
22 Opportunity.

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

25 "Related member" means a person that, with respect to the

1 investment, is any one of the following:

2 (1) An individual, if the individual and the members of
3 the individual's family (as defined in Section 318 of the
4 Internal Revenue Code) own directly, indirectly,
5 beneficially, or constructively, in the aggregate, at
6 least 50% of the value of the outstanding profits, capital,
7 stock, or other ownership interest in the applicant.

8 (2) A partnership, estate, or trust and any partner or
9 beneficiary, if the partnership, estate, or trust and its
10 partners or beneficiaries own directly, indirectly,
11 beneficially, or constructively, in the aggregate, at
12 least 50% of the profits, capital, stock, or other
13 ownership interest in the applicant.

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

22 (4) A corporation and any party related to that
23 corporation in a manner that would require an attribution
24 of stock from the corporation to the party or from the
25 party to the corporation under the attribution rules of
26 Section 318 of the Internal Revenue Code, if the

1 corporation and all such related parties own, in the
2 aggregate, at least 50% of the profits, capital, stock, or
3 other ownership interest in the applicant.

4 (5) A person to or from whom there is attribution of
5 stock ownership in accordance with Section 1563(e) of the
6 Internal Revenue Code, except that for purposes of
7 determining whether a person is a related member under this
8 paragraph, "20%" shall be substituted for "5%" whenever
9 "5%" appears in Section 1563(e) of the Internal Revenue
10 Code.

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

1 to the partners or shareholders in accordance with the
2 determination of income and distributive share of income under
3 Sections 702 and 704 and Subchapter S of the Internal Revenue
4 Code.

5 (c) The maximum amount of an applicant's investment that
6 may be used as the basis for a credit under this Section is
7 \$2,000,000 for each investment made directly in a qualified new
8 business venture.

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

23 (e) The Department shall implement a program to register
24 qualified new business ventures for purposes of this Section. A
25 business desiring registration shall submit an application to
26 the Department in each taxable year for which the business

1 desires registration. The Department may register the business
2 only if the business satisfies all of the following conditions:

3 (1) it has its headquarters in this State;

4 (2) at least 51% of the employees employed by the
5 business are employed in this State;

6 (3) it has the potential for increasing jobs in this
7 State, increasing capital investment in this State, or
8 both, and either of the following apply:

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

20 (B) it is undertaking pre-commercialization
21 activity related to proprietary technology that
22 includes conducting research, developing a new product
23 or business process, or developing a service that is
24 principally reliant on applying proprietary
25 technology;

26 (4) it is not principally engaged in real estate

1 development, insurance, banking, lending, lobbying,
2 political consulting, professional services provided by
3 attorneys, accountants, business consultants, physicians,
4 or health care consultants, wholesale or retail trade,
5 leisure, hospitality, transportation, or construction,
6 except construction of power production plants that derive
7 energy from a renewable energy resource, as defined in
8 Section 1 of the Illinois Power Agency Act;

9 (5) it has fewer than 100 employees;

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

13 (7) it has received not more than (i) \$10,000,000 in
14 aggregate private equity investment in cash or (ii)
15 \$4,000,000 in investments that qualified for tax credits
16 under this Section.

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

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

24 (h) On or before March 1 of each year, the Department shall
25 report to the Governor and to the General Assembly on the tax
26 credit certificates awarded under this Section for the prior

1 calendar year.

2 (1) This report must include, for each tax credit
3 certificate awarded:

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

6 (B) the name and address of the qualified new
7 business venture that received the investment giving
8 rise to the credit and the county in which the
9 qualified new business venture is located; and

10 (C) the date of approval by the Department of the
11 applications for the tax credit certificate.

12 (2) The report must also include:

13 (A) the total number of applicants and amount for
14 tax credit certificates awarded under this Section in
15 the prior calendar year;

16 (B) the total number of applications and amount for
17 which tax credit certificates were issued in the prior
18 calendar year; and

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

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

22 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

24 (a) In general. The business income of a person other than
25 a resident shall be allocated to this State if such person's

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

19 (1) Property factor.

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

1 year.

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

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

13 (2) Payroll factor.

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

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

20 (i) The individual's service is performed entirely
21 within this State;

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

26 (iii) Some of the service is performed within this

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

8 (iv) Compensation paid to nonresident professional
9 athletes.

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

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

26 (c) Definitions. For purposes of this subpart

1 (iv):

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

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

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

26 (A) Duty days shall also include days on

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

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

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

1 calculation shall be made for the period the
2 person was with each team.

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

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

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

25 (A) from the beginning of the official
26 pre-season training period through the last

1 game in which the team competes or is scheduled
2 to compete during that taxable year; and

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

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

18 For purposes of this subparagraph, "bonuses"
19 included in "total compensation for services
20 performed as a member of a professional athletic
21 team" subject to the allocation described in
22 Section 302(c)(1) are: bonuses earned as a result
23 of play (i.e., performance bonuses) during the
24 season, including bonuses paid for championship,
25 playoff or "bowl" games played by a team, or for
26 selection to all-star league or other honorary

1 positions; and bonuses paid for signing a
2 contract, unless the payment of the signing bonus
3 is not conditional upon the signee playing any
4 games for the team or performing any subsequent
5 services for the team or even making the team, the
6 signing bonus is payable separately from the
7 salary and any other compensation, and the signing
8 bonus is nonrefundable.

9 (3) Sales factor.

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

14 (B) Sales of tangible personal property are in this
15 State if:

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

20 (ii) The property is shipped from an office, store,
21 warehouse, factory or other place of storage in this
22 State and either the purchaser is the United States
23 government or the person is not taxable in the state of
24 the purchaser; provided, however, that premises owned
25 or leased by a person who has independently contracted
26 with the seller for the printing of newspapers,

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

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

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

19 (ii) Place of utilization.

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

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

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

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

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

1 receipts attributable to that item shall be excluded
2 from both the numerator and the denominator of the
3 sales factor.

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

17 (B-5) For taxable years ending on or after December 31,
18 2008, except as provided in subsections (ii) through (vii),
19 receipts from the sale of telecommunications service or
20 mobile telecommunications service are in this State if the
21 customer's service address is in this State.

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

24 "Ancillary services" means services that are
25 associated with or incidental to the provision of
26 "telecommunications services", including but not

1 limited to "detailed telecommunications billing",
2 "directory assistance", "vertical service", and "voice
3 mail services".

4 "Air-to-Ground Radiotelephone service" means a
5 radio service, as that term is defined in 47 CFR 22.99,
6 in which common carriers are authorized to offer and
7 provide radio telecommunications service for hire to
8 subscribers in aircraft.

9 "Call-by-call Basis" means any method of charging
10 for telecommunications services where the price is
11 measured by individual calls.

12 "Communications Channel" means a physical or
13 virtual path of communications over which signals are
14 transmitted between or among customer channel
15 termination points.

16 "Conference bridging service" means an "ancillary
17 service" that links two or more participants of an
18 audio or video conference call and may include the
19 provision of a telephone number. "Conference bridging
20 service" does not include the "telecommunications
21 services" used to reach the conference bridge.

22 "Customer Channel Termination Point" means the
23 location where the customer either inputs or receives
24 the communications.

25 "Detailed telecommunications billing service"
26 means an "ancillary service" of separately stating

1 information pertaining to individual calls on a
2 customer's billing statement.

3 "Directory assistance" means an "ancillary
4 service" of providing telephone number information,
5 and/or address information.

6 "Home service provider" means the facilities based
7 carrier or reseller with which the customer contracts
8 for the provision of mobile telecommunications
9 services.

10 "Mobile telecommunications service" means
11 commercial mobile radio service, as defined in Section
12 20.3 of Title 47 of the Code of Federal Regulations as
13 in effect on June 1, 1999.

14 "Place of primary use" means the street address
15 representative of where the customer's use of the
16 telecommunications service primarily occurs, which
17 must be the residential street address or the primary
18 business street address of the customer. In the case of
19 mobile telecommunications services, "place of primary
20 use" must be within the licensed service area of the
21 home service provider.

22 "Post-paid telecommunication service" means the
23 telecommunications service obtained by making a
24 payment on a call-by-call basis either through the use
25 of a credit card or payment mechanism such as a bank
26 card, travel card, credit card, or debit card, or by

1 charge made to a telephone number which is not
2 associated with the origination or termination of the
3 telecommunications service. A post-paid calling
4 service includes telecommunications service, except a
5 prepaid wireless calling service, that would be a
6 prepaid calling service except it is not exclusively a
7 telecommunication service.

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

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

24 "Private communication service" means a
25 telecommunication service that entitles the customer
26 to exclusive or priority use of a communications

1 channel or group of channels between or among
2 termination points, regardless of the manner in which
3 such channel or channels are connected, and includes
4 switching capacity, extension lines, stations, and any
5 other associated services that are provided in
6 connection with the use of such channel or channels.

7 "Service address" means:

8 (a) The location of the telecommunications
9 equipment to which a customer's call is charged and
10 from which the call originates or terminates,
11 regardless of where the call is billed or paid;

12 (b) If the location in line (a) is not known,
13 service address means the origination point of the
14 signal of the telecommunications services first
15 identified by either the seller's
16 telecommunications system or in information
17 received by the seller from its service provider
18 where the system used to transport such signals is
19 not that of the seller; and

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

23 "Telecommunications service" means the electronic
24 transmission, conveyance, or routing of voice, data,
25 audio, video, or any other information or signals to a
26 point, or between or among points. The term

1 "telecommunications service" includes such
2 transmission, conveyance, or routing in which computer
3 processing applications are used to act on the form,
4 code or protocol of the content for purposes of
5 transmission, conveyance or routing without regard to
6 whether such service is referred to as voice over
7 Internet protocol services or is classified by the
8 Federal Communications Commission as enhanced or value
9 added. "Telecommunications service" does not include:

10 (a) Data processing and information services
11 that allow data to be generated, acquired, stored,
12 processed, or retrieved and delivered by an
13 electronic transmission to a purchaser when such
14 purchaser's primary purpose for the underlying
15 transaction is the processed data or information;

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

18 (c) Tangible personal property;

19 (d) Advertising, including but not limited to
20 directory advertising.

21 (e) Billing and collection services provided
22 to third parties;

23 (f) Internet access service;

24 (g) Radio and television audio and video
25 programming services, regardless of the medium,
26 including the furnishing of transmission,

1 conveyance and routing of such services by the
2 programming service provider. Radio and television
3 audio and video programming services shall include
4 but not be limited to cable service as defined in
5 47 USC 522(6) and audio and video programming
6 services delivered by commercial mobile radio
7 service providers, as defined in 47 CFR 20.3;

8 (h) "Ancillary services"; or

9 (i) Digital products "delivered
10 electronically", including but not limited to
11 software, music, video, reading materials or ring
12 tones.

13 "Vertical service" means an "ancillary service"
14 that is offered in connection with one or more
15 "telecommunications services", which offers advanced
16 calling features that allow customers to identify
17 callers and to manage multiple calls and call
18 connections, including "conference bridging services".

19 "Voice mail service" means an "ancillary service"
20 that enables the customer to store, send or receive
21 recorded messages. "Voice mail service" does not
22 include any "vertical services" that the customer may
23 be required to have in order to utilize the "voice mail
24 service".

25 (ii) Receipts from the sale of telecommunications
26 service sold on an individual call-by-call basis are in

1 this State if either of the following applies:

2 (a) The call both originates and terminates in
3 this State.

4 (b) The call either originates or terminates
5 in this State and the service address is located in
6 this State.

7 (iii) Receipts from the sale of postpaid
8 telecommunications service at retail are in this State
9 if the origination point of the telecommunication
10 signal, as first identified by the service provider's
11 telecommunication system or as identified by
12 information received by the seller from its service
13 provider if the system used to transport
14 telecommunication signals is not the seller's, is
15 located in this State.

16 (iv) Receipts from the sale of prepaid
17 telecommunications service or prepaid mobile
18 telecommunications service at retail are in this State
19 if the purchaser obtains the prepaid card or similar
20 means of conveyance at a location in this State.
21 Receipts from recharging a prepaid telecommunications
22 service or mobile telecommunications service is in
23 this State if the purchaser's billing information
24 indicates a location in this State.

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

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

3 (b) 100% of receipts from charges for the total
4 channel mileage between each channel termination
5 point in this State.

6 (c) 50% of the total receipts from charges for
7 service segments when those segments are between 2
8 customer channel termination points, 1 of which is
9 located in this State and the other is located
10 outside of this State, which segments are
11 separately charged.

12 (d) The receipts from charges for service
13 segments with a channel termination point located
14 in this State and in two or more other states, and
15 which segments are not separately billed, are in
16 this State based on a percentage determined by
17 dividing the number of customer channel
18 termination points in this State by the total
19 number of customer channel termination points.

20 (vi) Receipts from charges for ancillary services
21 for telecommunications service sold to customers at
22 retail are in this State if the customer's primary
23 place of use of telecommunications services associated
24 with those ancillary services is in this State. If the
25 seller of those ancillary services cannot determine
26 where the associated telecommunications are located,

1 then the ancillary services shall be based on the
2 location of the purchaser.

3 (vii) Receipts to access a carrier's network or
4 from the sale of telecommunication services or
5 ancillary services for resale are in this State as
6 follows:

7 (a) 100% of the receipts from access fees
8 attributable to intrastate telecommunications
9 service that both originates and terminates in
10 this State.

11 (b) 50% of the receipts from access fees
12 attributable to interstate telecommunications
13 service if the interstate call either originates
14 or terminates in this State.

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

22 (d) Gross receipts from sales of
23 telecommunication services or from ancillary
24 services for telecommunications services sold to
25 other telecommunication service providers for
26 resale shall be sourced to this State using the

1 apportionment concepts used for non-resale
2 receipts of telecommunications services if the
3 information is readily available to make that
4 determination. If the information is not readily
5 available, then the taxpayer may use any other
6 reasonable and consistent method.

7 (B-7) For taxable years ending on or after December 31,
8 2008, receipts from the sale of broadcasting services are
9 in this State if the broadcasting services are received in
10 this State. For purposes of this paragraph (B-7), the
11 following terms have the following meanings:

12 "Advertising revenue" means consideration received
13 by the taxpayer in exchange for broadcasting services
14 or allowing the broadcasting of commercials or
15 announcements in connection with the broadcasting of
16 film or radio programming, from sponsorships of the
17 programming, or from product placements in the
18 programming.

19 "Audience factor" means the ratio that the
20 audience or subscribers located in this State of a
21 station, a network, or a cable system bears to the
22 total audience or total subscribers for that station,
23 network, or cable system. The audience factor for film
24 or radio programming shall be determined by reference
25 to the books and records of the taxpayer or by
26 reference to published rating statistics provided the

1 method used by the taxpayer is consistently used from
2 year to year for this purpose and fairly represents the
3 taxpayer's activity in this State.

4 "Broadcast" or "broadcasting" or "broadcasting
5 services" means the transmission or provision of film
6 or radio programming, whether through the public
7 airwaves, by cable, by direct or indirect satellite
8 transmission, or by any other means of communication,
9 either through a station, a network, or a cable system.

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

21 "Radio" or "radio programming" means the broadcast
22 on radio of any and all performances, events, or
23 productions, including but not limited to news,
24 sporting events, plays, stories, or other literary,
25 commercial, educational, or artistic works, either
26 live or through the use of an audio tape, disc, or any

1 other format or medium. Each episode in a series of
2 radio programming produced for radio broadcast shall
3 constitute a separate "radio programming"
4 notwithstanding that the series relates to the same
5 principal subject and is produced during one or more
6 tax periods.

7 (i) In the case of advertising revenue from
8 broadcasting, the customer is the advertiser and
9 the service is received in this State if the
10 commercial domicile of the advertiser is in this
11 State.

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

1 with the recipient or using the billing address of
2 the recipient in the taxpayer's records.

3 (iii) In the case where film or radio
4 programming is broadcast by a station, a network,
5 or a cable system for a fee or other remuneration
6 from the person providing the programming, the
7 portion of the broadcast service that is received
8 by such station, network, or cable system in this
9 State is measured by the portion of recipients of
10 the broadcast located in this State. Accordingly,
11 the amount of revenue related to such an
12 arrangement that is included in the Illinois
13 numerator of the sales factor is the total fee or
14 other total remuneration from the person providing
15 the programming related to that broadcast
16 multiplied by the Illinois audience factor for
17 that broadcast.

18 (iv) In the case where film or radio
19 programming is provided by a taxpayer that is a
20 network or station to a customer for broadcast in
21 exchange for a fee or other remuneration from that
22 customer the broadcasting service is received at
23 the location of the office of the customer from
24 which the services were ordered in the regular
25 course of the customer's trade or business.
26 Accordingly, in such a case the revenue derived by

1 the taxpayer that is included in the taxpayer's
2 Illinois numerator of the sales factor is the
3 revenue from such customers who receive the
4 broadcasting service in Illinois.

5 (v) In the case where film or radio programming
6 is provided by a taxpayer that is not a network or
7 station to another person for broadcasting in
8 exchange for a fee or other remuneration from that
9 person, the broadcasting service is received at
10 the location of the office of the customer from
11 which the services were ordered in the regular
12 course of the customer's trade or business.
13 Accordingly, in such a case the revenue derived by
14 the taxpayer that is included in the taxpayer's
15 Illinois numerator of the sales factor is the
16 revenue from such customers who receive the
17 broadcasting service in Illinois.

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

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

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

1 based on performance costs.

2 (C-5) For taxable years ending on or after December 31,
3 2008, sales, other than sales governed by paragraphs (B),
4 (B-1), (B-2), (B-5), and (B-7), are in this State if any of
5 the following criteria are met:

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

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

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

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

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

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

20 (iv) Sales of services are in this State if the
21 services are received in this State. For the purposes
22 of this section, gross receipts from the performance of
23 services provided to a corporation, partnership, or
24 trust may only be attributed to a state where that
25 corporation, partnership, or trust has a fixed place of
26 business. If the state where the services are received

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

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

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

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

17 (b) Insurance companies.

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

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

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

1 sources, or, alternatively, in the proportion which the sum
2 of the direct premiums written for insurance upon property
3 or risk in this State by each ceding company from which
4 reinsurance is accepted bears to the sum of the total
5 direct premiums written by each such ceding company for the
6 taxable year. The election made by a company under this
7 paragraph for its first taxable year ending on or after
8 December 31, 2011, shall be binding for that company for
9 that taxable year and for all subsequent taxable years, and
10 may be altered only with the written permission of the
11 Department, which shall not be unreasonably withheld.

12 (c) Financial organizations.

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

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

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

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

5 (D) Interest charged to customers at places of
6 business maintained within this State for carrying
7 debit balances of margin accounts, without deduction
8 of any costs incurred in carrying such accounts; and

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

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

23 (A) Adjusted Income. The adjusted income of an
24 international banking facility is its income reduced
25 by the amount of the floor amount.

26 (B) Floor Amount. The floor amount shall be the

1 amount, if any, determined by multiplying the income of
2 the international banking facility by a fraction, not
3 greater than one, which is determined as follows:

4 (i) The numerator shall be:

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

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

1 subtrahend) exceed the amount determined in the
2 preceding clause (the minuend); and

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

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

1 determining the floor amount.

2 (3) For taxable years ending on or after December 31,
3 2008, the business income of a financial organization shall
4 be apportioned to this State by multiplying such income by
5 a fraction, the numerator of which is its gross receipts
6 from sources in this State or otherwise attributable to
7 this State's marketplace and the denominator of which is
8 its gross receipts everywhere during the taxable year.
9 "Gross receipts" for purposes of this subparagraph (3)
10 means gross income, including net taxable gain on
11 disposition of assets, including securities and money
12 market instruments, when derived from transactions and
13 activities in the regular course of the financial
14 organization's trade or business. The following examples
15 are illustrative:

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

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

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

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

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

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

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

6 (vii) Receipts from the issuance of travelers
7 checks and money orders are from sources in this State
8 if the checks and money orders are issued from a
9 location within this State.

10 (viii) Receipts from investment assets and
11 activities and trading assets and activities are
12 included in the receipts factor as follows:

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

1 of this paragraph, the receipts factor shall
2 include the amounts described in such
3 subparagraphs.

4 (A) The receipts factor shall include the
5 amount by which interest from federal funds
6 sold and securities purchased under resale
7 agreements exceeds interest expense on federal
8 funds purchased and securities sold under
9 repurchase agreements.

10 (B) The receipts factor shall include the
11 amount by which interest, dividends, gains and
12 other income from trading assets and
13 activities, including but not limited to
14 assets and activities in the matched book, in
15 the arbitrage book, and foreign currency
16 transactions, exceed amounts paid in lieu of
17 interest, amounts paid in lieu of dividends,
18 and losses from such assets and activities.

19 (2) The numerator of the receipts factor
20 includes interest, dividends, net gains (but not
21 less than zero), and other income from investment
22 assets and activities and from trading assets and
23 activities described in paragraph (1) of this
24 subsection that are attributable to this State.

25 (A) The amount of interest, dividends, net
26 gains (but not less than zero), and other

1 income from investment assets and activities
2 in the investment account to be attributed to
3 this State and included in the numerator is
4 determined by multiplying all such income from
5 such assets and activities by a fraction, the
6 numerator of which is the gross income from
7 such assets and activities which are properly
8 assigned to a fixed place of business of the
9 taxpayer within this State and the denominator
10 of which is the gross income from all such
11 assets and activities.

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

1 (C) The amount of interest, dividends,
2 gains, and other income from trading assets and
3 activities, including but not limited to
4 assets and activities in the matched book, in
5 the arbitrage book and foreign currency
6 transactions (but excluding amounts described
7 in subparagraphs (A) or (B) of this paragraph),
8 attributable to this State and included in the
9 numerator is determined by multiplying the
10 amount described in subparagraph (B) of
11 paragraph (1) of this subsection by a fraction,
12 the numerator of which is the gross income from
13 such trading assets and activities which are
14 properly assigned to a fixed place of business
15 of the taxpayer within this State and the
16 denominator of which is the gross income from
17 all such assets and activities.

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

1 (i) the taxpayer has assigned, in the
2 regular course of its business, such asset
3 or activity on its records to a fixed place
4 of business consistent with federal or
5 state regulatory requirements;

6 (ii) such assignment on its records is
7 based upon substantive contacts of the
8 asset or activity to such fixed place of
9 business; and

10 (iii) the taxpayer uses such records
11 reflecting assignment of such assets or
12 activities for the filing of all state and
13 local tax returns for which an assignment
14 of such assets or activities to a fixed
15 place of business is required.

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

1 preponderance of substantive contacts cannot
2 be determined for an investment or trading
3 asset or activity to which the presumption in
4 subparagraph (D) of paragraph (2) of this
5 subsection does not apply or with respect to
6 which that presumption has been rebutted, that
7 asset or activity is properly assigned to the
8 state in which the taxpayer's commercial
9 domicile is located. For purposes of this
10 subparagraph (E), it shall be presumed,
11 subject to rebuttal, that taxpayer's
12 commercial domicile is in the state of the
13 United States or the District of Columbia to
14 which the greatest number of employees are
15 regularly connected with the management of the
16 investment or trading income or out of which
17 they are working, irrespective of where the
18 services of such employees are performed, as of
19 the last day of the taxable year.

20 (4) (Blank).

21 (5) (Blank).

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

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

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

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

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

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

1 mile is the transportation by pipeline of 1 barrel of oil,
2 1,000 cubic feet of gas, or of any specified quantity of
3 any other substance, the distance of 1 mile for a
4 consideration.

5 (3) For taxable years ending on or after December 31,
6 2008, business income derived from providing
7 transportation services other than airline services shall
8 be apportioned to this State by using a fraction, (a) the
9 numerator of which shall be (i) all receipts from any
10 movement or shipment of people, goods, mail, oil, gas, or
11 any other substance (other than by airline) that both
12 originates and terminates in this State, plus (ii) that
13 portion of the person's gross receipts from movements or
14 shipments of people, goods, mail, oil, gas, or any other
15 substance (other than by airline) that originates in one
16 state or jurisdiction and terminates in another state or
17 jurisdiction, that is determined by the ratio that the
18 miles traveled in this State bears to total miles
19 everywhere and (b) the denominator of which shall be all
20 revenue derived from the movement or shipment of people,
21 goods, mail, oil, gas, or any other substance (other than
22 by airline). Where a taxpayer is engaged in the
23 transportation of both passengers and freight, the
24 fraction above referred to shall first be determined
25 separately for passenger miles and freight miles. Then an
26 average of the passenger miles fraction and the freight

1 miles fraction shall be weighted to reflect the taxpayer's:

2 (A) relative railway operating income from total
3 passenger and total freight service, as reported to the
4 Surface Transportation Board, in the case of
5 transportation by railroad; and

6 (B) relative gross receipts from passenger and
7 freight transportation, in case of transportation
8 other than by railroad.

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

24 (e) Combined apportionment. Where 2 or more persons are
25 engaged in a unitary business as described in subsection
26 (a) (27) of Section 1501, a part of which is conducted in this

1 State by one or more members of the group, the business income
2 attributable to this State by any such member or members shall
3 be apportioned by means of the combined apportionment method.

4 (f) Alternative allocation. If the allocation and
5 apportionment provisions of subsections (a) through (e) and of
6 subsection (h) do not fairly represent the extent of a person's
7 business activity in this State, the person may petition for,
8 or the Director may, without a petition, permit or require, in
9 respect of all or any part of the person's business activity,
10 if reasonable:

11 (1) Separate accounting;

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

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

16 (4) The employment of any other method to effectuate an
17 equitable allocation and apportionment of the person's
18 business income.

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

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

24 (1) for tax years ending on or after December 31, 1998
25 and before December 31, 1999, $16 \frac{2}{3}\%$ of the property
26 factor plus $16 \frac{2}{3}\%$ of the payroll factor plus $66 \frac{2}{3}\%$ of

1 the sales factor;

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

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

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

15 (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08;
16 96-763, eff. 8-25-09.)

17 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

18 Sec. 502. Returns and notices.

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

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

23 (2) in the case of a resident or in the case of a
24 corporation which is qualified to do business in this
25 State, for which such person is required to make a federal

1 income tax return, regardless of whether such person is
2 liable for a tax imposed by this Act. However, this
3 paragraph shall not require a resident to make a return if
4 such person has an Illinois base income of the basic amount
5 in Section 204(b) or less and is either claimed as a
6 dependent on another person's tax return under the Internal
7 Revenue Code ~~of 1986~~, or is claimed as a dependent on
8 another person's tax return under this Act.

9 Notwithstanding the provisions of paragraph (1), a
10 nonresident (other than, for taxable years ending on or after
11 December 31, 2011, a nonresident required to withhold tax under
12 Section 709.5) whose Illinois income tax liability under
13 subsections (a), (b), (c), and (d) of Section 201 of this Act
14 is paid in full after taking into account the credits allowed
15 under subsection (f) of this Section or allowed under Section
16 709.5 of this Act shall not be required to file a return under
17 this subsection (a).

18 (b) Fiduciaries and receivers.

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

23 (2) Individuals under a disability. If an individual is
24 unable to make a return or notice required under this Act,
25 the return or notice required of such individual shall be
26 made by his duly authorized agent, guardian, fiduciary or

1 other person charged with the care of the person or
2 property of such individual.

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

6 (4) Receivers, trustees and assignees for
7 corporations. In a case where a receiver, trustee in
8 bankruptcy, or assignee, by order of a court of competent
9 jurisdiction, by operation of law, or otherwise, has
10 possession of or holds title to all or substantially all
11 the property or business of a corporation, whether or not
12 such property or business is being operated, such receiver,
13 trustee, or assignee shall make the returns and notices
14 required of such corporation in the same manner and form as
15 corporations are required to make such returns and notices.

16 (c) Joint returns by husband and wife.

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

18 (A) if a husband and wife file a joint federal
19 income tax return for a taxable year ending before
20 December 31, 2009, they shall file a joint return under
21 this Act for such taxable year and their liabilities
22 shall be joint and several;

23 (B) if a husband and wife file a joint federal
24 income tax return for a taxable year ending on or after
25 December 31, 2009, they may elect to file separate
26 returns under this Act for such taxable year. The

1 election under this paragraph must be made on or before
2 the due date (including extensions) of the return and,
3 once made, shall be irrevocable. If no election is
4 timely made under this paragraph for a taxable year:

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

7 (ii) their liabilities shall be joint and
8 several, and

9 (iii) any overpayment for that taxable year
10 may be withheld under Section 909 of this Act or
11 under Section 2505-275 of the Civil Administrative
12 Code of Illinois and applied against a debt of
13 either spouse without regard to the amount of the
14 overpayment attributable to the other spouse; and

15 (C) if the federal income tax liability of either
16 spouse is determined on a separate federal income tax
17 return, they shall file separate returns under this
18 Act.

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

24 (3) If either husband or wife is a resident and the
25 other is a nonresident, they shall file separate returns in
26 this State on such forms as may be required by the

1 Department in which event their tax liabilities shall be
2 separate; but if they file a joint federal income tax
3 return for a taxable year, they may elect to determine
4 their joint net income and file a joint return for that
5 taxable year under the provisions of paragraph (1) of this
6 subsection as if both were residents and in such case,
7 their liabilities shall be joint and several.

8 (4) Innocent spouses.

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

23 (B) For tax liabilities arising on and after August
24 13, 1999 or which arose prior to that date, but remain
25 unpaid as of that date, if an individual who filed a
26 joint return for any taxable year has made an election

1 under this paragraph, the individual's liability for
2 any tax shown on the joint return shall not exceed the
3 individual's separate return amount and the
4 individual's liability for any deficiency assessed for
5 that taxable year shall not exceed the portion of the
6 deficiency properly allocable to the individual. For
7 purposes of this paragraph:

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

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

1 filing.

2 (iii) In determining the separate return
3 amount or portion of any deficiency attributable
4 to an individual, the Department shall follow the
5 provisions in subsections (c) and (d) of Section
6 6015 of the Internal Revenue Code.

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

1 election shall have the burden of proof with
2 respect to any item except that the Department
3 shall have the burden of proof with respect to
4 items in subdivision (ii).

5 (v) Any election made by an individual under
6 this subsection shall apply to all years for which
7 that individual and the spouse named in the
8 election have filed a joint return.

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

1 Department shall take no collection action against
2 the electing individual until the decision
3 regarding the protest has become final under
4 subsection (d) of Section 908 or, if
5 administrative review of the Department's decision
6 is requested under Section 1201, until the
7 decision of the court becomes final.

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

19 (e) For taxable years ending on or after December 31, 1985,
20 and before December 31, 1993, taxpayers that are corporations
21 (other than Subchapter S corporations) having the same taxable
22 year and that are members of the same unitary business group
23 may elect to be treated as one taxpayer for purposes of any
24 original return, amended return which includes the same
25 taxpayers of the unitary group which joined in the election to
26 file the original return, extension, claim for refund,

1 assessment, collection and payment and determination of the
2 group's tax liability under this Act. This subsection (e) does
3 not permit the election to be made for some, but not all, of
4 the purposes enumerated above. For taxable years ending on or
5 after December 31, 1987, corporate members (other than
6 Subchapter S corporations) of the same unitary business group
7 making this subsection (e) election are not required to have
8 the same taxable year.

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

18 (f) The Department may promulgate regulations to permit
19 nonresident individual partners of the same partnership,
20 nonresident Subchapter S corporation shareholders of the same
21 Subchapter S corporation, and nonresident individuals
22 transacting an insurance business in Illinois under a Lloyds
23 plan of operation, and nonresident individual members of the
24 same limited liability company that is treated as a partnership
25 under Section 1501 (a)(16) of this Act, to file composite
26 individual income tax returns reflecting the composite income

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

13 For taxable years ending on or after December 31, 1999, the
14 Department may, by regulation, also permit any persons
15 transacting an insurance business organized under a Lloyds plan
16 of operation to file composite returns reflecting the income of
17 such persons allocable to Illinois and the tax rates applicable
18 to such persons under Section 201 and to make composite tax
19 payments and shall, by regulation, also provide that the income
20 and apportionment factors attributable to the transaction of an
21 insurance business organized under a Lloyds plan of operation
22 by any person joining in the filing of a composite return
23 shall, for purposes of allocating and apportioning income under
24 Article 3 of this Act and computing net income under Section
25 202 of this Act, be excluded from any other income and
26 apportionment factors of that person or of any unitary business

1 group, as defined in subdivision (a)(27) of Section 1501, to
2 which that person may belong.

3 For taxable years ending on or after December 31, 2008,
4 every nonresident shall be allowed a credit against his or her
5 liability under subsections (a) and (b) of Section 201 for any
6 amount of tax reported on a composite return and paid on his or
7 her behalf under this subsection (f). Residents (other than
8 persons transacting an insurance business organized under a
9 Lloyds plan of operation) may claim a credit for taxes reported
10 on a composite return and paid on their behalf under this
11 subsection (f) only as permitted by the Department by rule.

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

23 (g) The Department may adopt rules to authorize the
24 electronic filing of any return required to be filed under this
25 Section.

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

1 (35 ILCS 5/506) (from Ch. 120, par. 5-506)

2 Sec. 506. Federal Returns.

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

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

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

1 Revenue Code, or

2 (2) the amount of tax required to be withheld by that
3 person from compensation paid to employees and required to
4 be reported by that person on a federal return is altered
5 by amendment of the return or by any other recomputation or
6 redetermination that is agreed to or finally determined on
7 or after January 1, 2003, and the alteration affects the
8 amount of compensation subject to withholding by that
9 person under Section 701 of this Act.

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

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

22 (35 ILCS 5/601) (from Ch. 120, par. 6-601)

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

24 (a) In general. Every taxpayer required to file a return
25 under this Act shall, without assessment, notice or demand, pay

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

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

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

1 paid on account of such tax for the last taxable year so
2 beginning.

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

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

1 would be allocated or apportioned to other states if all
2 other states had adopted the provisions in Article 3 of
3 this Act bears to the taxpayer's total base income subject
4 to tax by this State for the taxable year. The credit
5 provided by this paragraph shall not be allowed if any
6 creditable tax was deducted in determining base income for
7 the taxable year. Any person claiming such credit shall
8 attach a statement in support thereof and shall notify the
9 Director of any refund or reductions in the amount of tax
10 claimed as a credit hereunder all in such manner and at
11 such time as the Department shall by regulations prescribe.

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

1 ~~and 669~~ of the Internal Revenue Code were excluded from his
2 or her base income.

3 (c) Cross reference. For application against tax due of
4 overpayments of tax for a prior year, see Section 909.
5 (Source: P.A. 96-468, eff. 8-14-09.)

6 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

7 Sec. 701. Requirement and Amount of Withholding.

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

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

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

23 (b) Payment to Residents. Any payment (including
24 compensation) to a resident by a payor maintaining an office or
25 transacting business within this State (including any agency,

1 officer, or employee of this State or of any political
2 subdivision of this State) and on which withholding of tax is
3 required under the provisions of the Internal Revenue Code
4 shall be deemed to be compensation paid in this State by an
5 employer to an employee for the purposes of Article 7 and
6 Section 601(b)(1) to the extent such payment is included in the
7 recipient's base income and not subjected to withholding by
8 another state. Notwithstanding any other provision to the
9 contrary, no amount shall be withheld from unemployment
10 insurance benefit payments made to an individual pursuant to
11 the Unemployment Insurance Act unless the individual has
12 voluntarily elected the withholding pursuant to rules
13 promulgated by the Director of Employment Security.

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

22 (d) Reciprocal Exemption. The Director may enter into an
23 agreement with the taxing authorities of any state which
24 imposes a tax on or measured by income to provide that
25 compensation paid in such state to residents of this State
26 shall be exempt from withholding of such tax; in such case, any

1 compensation paid in this State to residents of such state
2 shall be exempt from withholding. All reciprocal agreements
3 shall be subject to the requirements of Section 2505-575 of the
4 Department of Revenue Law (20 ILCS 2505/2505-575).

5 (e) Notwithstanding subsection (a)(2) of this Section, no
6 withholding is required on payments for which withholding is
7 required under Section 3405 or 3406 of the Internal Revenue
8 Code ~~of 1954~~.

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

10 (35 ILCS 5/702) (from Ch. 120, par. 7-702)

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

1 rely on this information for withholding purposes. If any
2 employee fails or refuses to furnish such information, the
3 employer shall withhold the full rate of tax from the
4 employee's total compensation.

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

6 (35 ILCS 5/703) (from Ch. 120, par. 7-703)

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

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

1 (35 ILCS 5/704A)

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

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

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

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

15 (1) Semi-weekly payments. For each calendar year, each
16 employer who withheld or was required to withhold more than
17 \$12,000 during the one-year period ending on June 30 of the
18 immediately preceding calendar year, payment must be made:

19 (A) on or before each Friday of the calendar year,
20 for taxes withheld or required to be withheld on the
21 immediately preceding Saturday, Sunday, Monday, or
22 Tuesday;

23 (B) on or before each Wednesday of the calendar
24 year, for taxes withheld or required to be withheld on
25 the immediately preceding Wednesday, Thursday, or

1 Friday.

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

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

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

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

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

22 (1) Permit employers, in lieu of the requirements of
23 subsections (b) and (c), to file annual returns due on or
24 before January 31 of the year for taxes withheld or
25 required to be withheld during the previous calendar year
26 and, if the aggregate amounts required to be withheld by

1 the employer under this Article 7 (other than amounts
2 required to be withheld under Section 709.5) do not exceed
3 \$1,000 for the previous calendar year, to pay the taxes
4 required to be shown on each such return no later than the
5 due date for such return.

6 (2) Provide that any payment required to be made under
7 subsection (c)(1) or (c)(2) is deemed to be timely to the
8 extent paid by electronic funds transfer on or before the
9 due date for deposit of federal income taxes withheld from,
10 or federal employment taxes due with respect to, the wages
11 from which the Illinois taxes were withheld.

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

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

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

1 be submitted with the employer's individual income tax return
2 or to be submitted with a return due from the employer under
3 Section 1400.2 of the Unemployment Insurance Act.

4 (f) Magnetic media and electronic filing. Any W-2 Form
5 that, under the Internal Revenue Code and regulations
6 promulgated thereunder, is required to be submitted to the
7 Internal Revenue Service on magnetic media or electronically
8 must also be submitted to the Department on magnetic media or
9 electronically for Illinois purposes, if required by the
10 Department.

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

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

25 (h) An employer may claim a credit against payments due
26 under this Section for amounts withheld during the first

1 calendar year ending after the date on which a tax credit
2 certificate was issued under Section 35 of the Small Business
3 Job Creation Tax Credit Act. The credit shall be equal to the
4 amount shown on the certificate, but may not reduce the
5 taxpayer's obligation for any payment due under this Section to
6 less than zero. If the amount of the credit exceeds the total
7 payments due under this Section with respect to amounts
8 withheld during the calendar year, the excess may be carried
9 forward and applied against the taxpayer's liability under this
10 Section in the 5 succeeding calendar years. The credit shall be
11 applied to the earliest year for which there is a tax
12 liability. If there are credits from more than one calendar
13 year that are available to offset a liability, the earlier
14 credit shall be applied first. This Section is exempt from the
15 provisions of Section 250 of this Act.

16 (Source: P.A. 95-8, eff. 6-29-07; 95-707, eff. 1-11-08; 96-834,
17 eff. 12-14-09; 96-888, eff. 4-13-10; 96-905, eff. 6-4-10;
18 96-1027, eff. 7-12-10; revised 9-16-10.)

19 (35 ILCS 5/709.5)

20 Sec. 709.5. Withholding by partnerships, Subchapter S
21 corporations, and trusts.

22 (a) In general. For each taxable year ending on or after
23 December 31, 2008, every partnership (other than a publicly
24 traded partnership under Section 7704 of the Internal Revenue
25 Code or investment partnership), Subchapter S corporation, and

1 trust must withhold from each nonresident partner,
2 shareholder, or beneficiary (other than a partner,
3 shareholder, or beneficiary who is exempt from tax under
4 Section 501(a) of the Internal Revenue Code or under Section
5 205 of this Act, ~~or~~ who is included on a composite return filed
6 by the partnership or Subchapter S corporation for the taxable
7 year under subsection (f) of Section 502 of this Act), or who
8 is a retired partner, to the extent that partner's
9 distributions are exempt from tax under Section 203(a)(2)(F) of
10 this Act) an amount equal to the distributable share of the
11 business income of the partnership, Subchapter S corporation,
12 or trust apportionable to Illinois of that partner,
13 shareholder, or beneficiary under Sections 702 and 704 and
14 Subchapter S of the Internal Revenue Code, whether or not
15 distributed, multiplied by the applicable rates of tax for that
16 partner or shareholder under subsections (a) through (d) of
17 Section 201 of this Act.

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

1 its obligation for withholding under this Section for amounts
2 withheld under this Section with respect to income
3 distributable to it by a partnership, Subchapter S corporation,
4 or trust and allowing its partners, shareholders, or
5 beneficiaries to claim a credit under this subsection (b) for
6 those withheld amounts.

7 (c) Exemption from withholding.

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

16 (A) file all returns that the partner,
17 shareholder, or beneficiary is required to file under
18 Section 502 of this Act and make timely payment of all
19 taxes imposed under Section 201 of this Act or under
20 this Section on the partner, shareholder, or
21 beneficiary with respect to income of the partnership,
22 S corporation, or trust; and

23 (B) be subject to personal jurisdiction in this
24 State for purposes of the collection of income taxes,
25 together with related interest and penalties, imposed
26 on the partner, shareholder, or beneficiary with

1 respect to the income of the partnership, S
2 corporation, or trust.

3 (2) The Department may revoke the exemption provided by
4 this subsection (c) at any time that it determines that the
5 nonresident partner, shareholder, or beneficiary is not
6 abiding by the terms of the certificate. The Department
7 shall notify the partnership, S corporation, or trust that
8 it has revoked a certificate by notice left at the usual
9 place of business of the partnership, S corporation, or
10 trust or by mail to the last known address of the
11 partnership, S corporation, or trust.

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

22 (4) Certificates received by a the partnership, S
23 corporation, or trust under this subsection (c) must be
24 retained by the partnership, S corporation, or trust and a
25 record of such certificates must be provided to the
26 Department, in a format in which the record is available

1 for review by the Department, upon request by the
2 Department. The Department may, by rule, require the record
3 of certificates to be maintained and provided to the
4 Department electronically.

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

6 (35 ILCS 5/804) (from Ch. 120, par. 8-804)

7 Sec. 804. Failure to Pay Estimated Tax.

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

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

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

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

21 (c) Amount of Required Installments.

22 (1) Amount.

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

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

1 (B) Required Annual Payment. For purposes of
2 subparagraph (A), the term "required annual payment"
3 means the lesser of

4 (i) 90% of the tax shown on the return for the
5 taxable year, or if no return is filed, 90% of the
6 tax for such year,

7 (ii) for installments due prior to February 1,
8 2011, and after January 31, 2012, 100% of the tax
9 shown on the return of the taxpayer for the
10 preceding taxable year if a return showing a
11 liability for tax was filed by the taxpayer for the
12 preceding taxable year and such preceding year was
13 a taxable year of 12 months; or

14 (iii) for installments due after January 31,
15 2011, and prior to February 1, 2012, 150% of the
16 tax shown on the return of the taxpayer for the
17 preceding taxable year if a return showing a
18 liability for tax was filed by the taxpayer for the
19 preceding taxable year and such preceding year was
20 a taxable year of 12 months.

21 (2) Lower Required Installment where Annualized Income
22 Installment is Less Than Amount Determined Under Paragraph
23 (1).

24 (A) In General. In the case of any required
25 installment if a taxpayer establishes that the
26 annualized income installment is less than the amount

1 determined under paragraph (1),

2 (i) the amount of such required installment
3 shall be the annualized income installment, and

4 (ii) any reduction in a required installment
5 resulting from the application of this
6 subparagraph shall be recaptured by increasing the
7 amount of the next required installment determined
8 under paragraph (1) by the amount of such
9 reduction, and by increasing subsequent required
10 installments to the extent that the reduction has
11 not previously been recaptured under this clause.

12 (B) Determination of Annualized Income
13 Installment. In the case of any required installment,
14 the annualized income installment is the excess, if
15 any, of

16 (i) an amount equal to the applicable
17 percentage of the tax for the taxable year computed
18 by placing on an annualized basis the net income
19 for months in the taxable year ending before the
20 due date for the installment, over

21 (ii) the aggregate amount of any prior
22 required installments for the taxable year.

23 (C) Applicable Percentage.

24 In the case of the following	The applicable
25 required installments:	percentage is:
26 1st.....	22.5%

1	2nd.....	45%
2	3rd.....	67.5%
3	4th.....	90%

4 (D) Annualized Net Income; Individuals. For
5 individuals, net income shall be placed on an
6 annualized basis by:

7 (i) multiplying by 12, or in the case of a
8 taxable year of less than 12 months, by the number
9 of months in the taxable year, the net income
10 computed without regard to the standard exemption
11 for the months in the taxable year ending before
12 the month in which the installment is required to
13 be paid;

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

17 (iii) deducting from such amount the standard
18 exemption allowable for the taxable year, such
19 standard exemption being determined as of the last
20 date prescribed for payment of the installment.

21 (E) Annualized Net Income; Corporations. For
22 corporations, net income shall be placed on an
23 annualized basis by multiplying by 12 the taxable
24 income

25 (i) for the first 3 months of the taxable year,
26 in the case of the installment required to be paid

1 in the 4th month,

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

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

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

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

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

1 304. The provisions of this amendatory Act of 1998 apply to tax
2 years ending on or after December 31, 1998.

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

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

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

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

22 (2) amounts timely paid by a partnership, Subchapter S
23 corporation, or trust on behalf of a partner, shareholder,
24 or beneficiary pursuant to subsection (f) of Section 502 or
25 Section 709.5 and claimed as a payment of estimated tax
26 shall be deemed a payment of estimated tax made on the last

1 day of the taxable year of the partnership, Subchapter S
2 corporation, or trust for which the income from the
3 withholding is made was computed; and

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

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

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

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

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

20 (35 ILCS 5/909) (from Ch. 120, par. 9-909)

21 Sec. 909. Credits and Refunds.

22 (a) In general. In the case of any overpayment, the
23 Department, within the applicable period of limitations for a
24 claim for refund, may credit the amount of such overpayment,
25 including any interest allowed thereon, against any liability

1 in respect of the tax imposed by this Act, regardless of
2 whether other collection remedies are closed to the Department
3 on the part of the person who made the overpayment and shall
4 refund any balance to such person.

5 (b) Credits against estimated tax. The Department may
6 prescribe regulations providing for the crediting against the
7 estimated tax for any taxable year of the amount determined by
8 the taxpayer or the Department to be an overpayment of the tax
9 imposed by this Act for a preceding taxable year.

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

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

22 (e) Notice of denial. As soon as practicable after a claim
23 for refund is filed, the Department shall examine it and either
24 issue a notice of refund, abatement or credit to the claimant
25 or issue a notice of denial. If the Department has failed to
26 approve or deny the claim before the expiration of 6 months

1 from the date the claim was filed, the claimant may
2 nevertheless thereafter file with the Department a written
3 protest in such form as the Department may by regulation
4 prescribe. If a protest is filed, the Department shall consider
5 the claim and, if the taxpayer has so requested, shall grant
6 the taxpayer or the taxpayer's authorized representative a
7 hearing within 6 months after the date such request is filed.

8 (f) Effect of denial. A denial of a claim for refund
9 becomes final 60 days after the date of issuance of the notice
10 of such denial except for such amounts denied as to which the
11 claimant has filed a protest with the Department, as provided
12 by Section 910.

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

26 (h) This amendatory Act of 1983 applies to returns and

1 claims for refunds filed with the Department on and after July
2 1, 1983.

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

4 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

5 Sec. 911. Limitations on Claims for Refund.

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

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

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

18 (b) Federal changes.

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

1 recomputation of the taxpayer's net income, net loss, or
2 Article 2 credits for the taxable year after giving effect
3 to the item or items reflected in the alteration required
4 to be reported.

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

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

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

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

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

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

25 (e) Time return deemed filed. For purposes of this section
26 a tax return filed before the last day prescribed by law for

1 the filing of such return (including any extensions thereof)
2 shall be deemed to have been filed on such last day.

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

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

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

22 (h) Claim for refund based on net loss. On and after August
23 23, 2002, no claim for refund shall be allowed to the extent
24 the refund is the result of an amount of net loss incurred in
25 any taxable year ending prior to December 31, 2002 under
26 Section 207 of this Act that was not reported to the Department

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

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

9 (35 ILCS 5/1002) (from Ch. 120, par. 10-1002)

10 Sec. 1002. Failure to Pay Tax.

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

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

20 (c) Nonwillful failure to pay withholding tax. If any
21 employer, without intent to evade or defeat any tax imposed by
22 this Act or the payment thereof, shall fail to make a return
23 and pay a tax withheld by him at the time required by or under
24 the provisions of this Act, such employer shall be liable for
25 such taxes and shall pay the same together with the interest

1 and the penalty provided by Sections 3-2 and 3-3, respectively,
2 of the Uniform Penalty and Interest Act and such interest and
3 penalty shall not be charged to or collected from the employee
4 by the employer.

5 (d) Willful failure to collect and pay over tax. Any person
6 required to collect, truthfully account for, and pay over the
7 tax imposed by this Act who willfully fails to collect such tax
8 or truthfully account for and pay over such tax or willfully
9 attempts in any manner to evade or defeat the tax or the
10 payment thereof, shall, in addition to other penalties provided
11 by law, be liable for the penalty imposed by Section 3-7 of the
12 Uniform Penalty and Interest Act.

13 (e) Penalties assessable.

14 (1) In general. Except as otherwise provided in this
15 Act or the Uniform Penalty and Interest Act, the penalties
16 provided by this Act or by the Uniform Penalty and Interest
17 Act shall be paid upon notice and demand and shall be
18 assessed, collected, and paid in the same manner as taxes
19 and any reference in this Act to the tax imposed by this
20 Act shall be deemed also to refer to penalties provided by
21 this Act or by the Uniform Penalty and Interest Act.

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

26 (3) Procedure for assessing the penalty for failure to

1 file withholding returns or annual transmittal forms for
2 wage and tax statements. The penalty imposed by Section
3 1004 will be asserted by the Department's issuance of a
4 notice of deficiency. If taxpayer files a timely protest,
5 the procedures of Section 908 will be followed. If taxpayer
6 does not file a timely protest, the notice of deficiency
7 will constitute an assessment pursuant to subsection (c) of
8 Section 904.

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

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

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

22 (35 ILCS 5/1101) (from Ch. 120, par. 11-1101)

23 Sec. 1101. Lien for Tax.

24 (a) If any person liable to pay any tax neglects or refuses
25 to pay the same after demand, the amount (including any

1 interest, additional amount, addition to tax, or assessable
2 penalty, together with any costs that may accrue in addition
3 thereto) shall be a lien in favor of the State of Illinois upon
4 all property and rights to property, whether real or personal,
5 belonging to such person.

6 (b) Unless another date is specifically fixed by law, the
7 lien imposed by subsection (a) of this Section shall arise at
8 the time the assessment is made and shall continue until the
9 liability for the amount so assessed (or a judgment against the
10 taxpayer arising out of such liability) is satisfied or becomes
11 unenforceable by reason of lapse of time.

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

18 (d) Notice of lien. The lien created by assessment shall
19 terminate unless a notice of lien is filed, as provided in
20 section 1103 hereof, within 3 years from the date all
21 proceedings in court for the review of such assessment have
22 terminated or the time for the taking thereof has expired
23 without such proceedings being instituted. Where the lien
24 results from the filing of a return without payment of the tax
25 or penalty shown therein to be due, the lien shall terminate
26 unless a notice of lien is filed within 3 years from the date

1 such return was filed with the Department. For the purposes of
2 this subsection (d) ~~(e)~~, a tax return filed before the last day
3 prescribed by law, including any extension thereof, shall be
4 deemed to have been filed on such last day. The time limitation
5 period on the Department's right to file a notice of lien shall
6 not run during any period of time in which the order of any
7 court has the effect of enjoining or restraining the Department
8 from filing such notice of lien.

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

10 (35 ILCS 5/1402) (from Ch. 120, par. 14-1402)

11 Sec. 1402. Notice.

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

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

21 (35 ILCS 5/1405.4)

22 Sec. 1405.4. Tax refund inquiries; response. The
23 Department of Revenue shall establish procedures to inform
24 taxpayers of the status of their refunds and shall provide a

1 ~~response to respond in writing to~~ each inquiry concerning
2 refunds under this Act within 10 days after receiving the
3 inquiry. ~~The response shall include the date the inquiry was~~
4 ~~received, the file number assigned to the inquiry, and the name~~
5 ~~and telephone number of a person within the Department of~~
6 ~~Revenue whom the taxpayer may contact with further inquiries.~~

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

8 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

9 Sec. 1501. Definitions.

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

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

23 (1.5) Captive real estate investment trust:

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

1 (i) that is considered a real estate
2 investment trust for the taxable year under
3 Section 856 of the Internal Revenue Code;

4 (ii) the certificates of beneficial interest
5 or shares of which are not regularly traded on an
6 established securities market; and

7 (iii) of which more than 50% of the voting
8 power or value of the beneficial interest or
9 shares, at any time during the last half of the
10 taxable year, is owned or controlled, directly,
11 indirectly, or constructively, by a single
12 corporation.

13 (B) The term "captive real estate investment
14 trust" does not include:

15 (i) a real estate investment trust of which
16 more than 50% of the voting power or value of the
17 beneficial interest or shares is owned or
18 controlled, directly, indirectly, or
19 constructively, by:

20 (a) a real estate investment trust, other
21 than a captive real estate investment trust;

22 (b) a person who is exempt from taxation
23 under Section 501 of the Internal Revenue Code,
24 and who is not required to treat income
25 received from the real estate investment trust
26 as unrelated business taxable income under

1 Section 512 of the Internal Revenue Code;

2 (c) a listed Australian property trust, if
3 no more than 50% of the voting power or value
4 of the beneficial interest or shares of that
5 trust, at any time during the last half of the
6 taxable year, is owned or controlled, directly
7 or indirectly, by a single person;

8 (d) an entity organized as a trust,
9 provided a listed Australian property trust
10 described in subparagraph (c) owns or
11 controls, directly or indirectly, or
12 constructively, 75% or more of the voting power
13 or value of the beneficial interests or shares
14 of such entity; or

15 (e) an entity that is organized outside of
16 the laws of the United States and that
17 satisfies all of the following criteria:

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

1 (2) the entity is not subject to tax on
2 amounts that are distributed to its
3 beneficial owners or is exempt from
4 entity-level taxation;

5 (3) the entity distributes at least
6 85% of its taxable income (as computed in
7 the jurisdiction in which it is organized)
8 to the holders of its shares or
9 certificates of beneficial interest on an
10 annual basis;

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

19 (5) the entity is organized in a
20 country that has entered into a tax treaty
21 with the United States; or

22 (ii) during its first taxable year for which it
23 elects to be treated as a real estate investment
24 trust under Section 856(c)(1) of the Internal
25 Revenue Code, a real estate investment trust the
26 certificates of beneficial interest or shares of

1 which are not regularly traded on an established
2 securities market, but only if the certificates of
3 beneficial interest or shares of the real estate
4 investment trust are regularly traded on an
5 established securities market prior to the earlier
6 of the due date (including extensions) for filing
7 its return under this Act for that first taxable
8 year or the date it actually files that return.

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

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

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

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

1 (5) Department. The term "Department" means the
2 Department of Revenue of this State.

3 (6) Director. The term "Director" means the Director of
4 Revenue of this State.

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

8 (8) Financial organization.

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

25 (B) For purposes of subparagraph (A) of this
26 paragraph, the term "bank" includes (i) any entity that

1 is regulated by the Comptroller of the Currency under
2 the National Bank Act, or by the Federal Reserve Board,
3 or by the Federal Deposit Insurance Corporation and
4 (ii) any federally or State chartered bank operating as
5 a credit card bank.

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

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

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

23 (b) an installment, charge, credit, or
24 similar contract or agreement arising from the
25 sale of tangible personal property or services
26 in a transaction involving a deferred payment

1 price payable in one or more installments
2 subsequent to the sale; or

3 (c) the outstanding balance of a contract
4 or agreement described in provisions (a) or (b)
5 of this item (i).

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

14 (ii) A corporation meeting each of the
15 following criteria:

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

21 (b) more than 50% of the gross income of
22 the corporation for the taxable year must be
23 interest income derived from qualifying loans.
24 A "qualifying loan" is a loan made to a member
25 of the corporation's affiliated group that
26 originates customer receivables (within the

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

24 (c) the total of all shareholder's equity
25 (including, without limitation, paid-in
26 capital on common and preferred stock and

1 retained earnings) of the corporation plus the
2 total of all of its loans, advances, and other
3 obligations payable or owed to members of its
4 affiliated group may not exceed 20% of the
5 total assets of the corporation at any time
6 during the tax year; and

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

13 This amendatory Act of the 91st General Assembly is
14 declaratory of existing law.

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

1 purposes of this Act.

2 (E) For all tax years beginning on or before
3 December 31, 1996, a taxpayer that falls within the
4 definition of a "financial organization" under
5 subparagraphs (B) or (C) of this paragraph, but who
6 does not fall within the definition of a "financial
7 organization" under the Proposed Regulations issued by
8 the Department of Revenue on July 19, 1996, may
9 irrevocably elect to apply the Proposed Regulations
10 for all of those years as though the Proposed
11 Regulations had been lawfully promulgated, adopted,
12 and in effect for all of those years. For purposes of
13 applying subparagraphs (B) or (C) of this paragraph to
14 all of those years, the election allowed by this
15 subparagraph applies only to the taxpayer making the
16 election and to those members of the taxpayer's unitary
17 business group who are ordinarily required to
18 apportion business income under the same subsection of
19 Section 304 of this Act as the taxpayer making the
20 election. No election allowed by this subparagraph
21 shall be made under a claim filed under subsection (d)
22 of Section 909 more than 30 days after the effective
23 date of this amendatory Act of 1996.

24 (F) Finance Leases. For purposes of this
25 subsection, a finance lease shall be treated as a loan
26 or other extension of credit, rather than as a lease,

1 regardless of how the transaction is characterized for
2 any other purpose, including the purposes of any
3 regulatory agency to which the lessor is subject. A
4 finance lease is any transaction in the form of a lease
5 in which the lessee is treated as the owner of the
6 leased asset entitled to any deduction for
7 depreciation allowed under Section 167 of the Internal
8 Revenue Code.

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

12 (9.5) Fixed place of business. The term "fixed place of
13 business" has the same meaning as that term is given in
14 Section 864 of the Internal Revenue Code and the related
15 Treasury regulations.

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

20 (11) Internal Revenue Code. The term "Internal Revenue
21 Code" means the United States Internal Revenue Code of 1954
22 or any successor law or laws relating to federal income
23 taxes in effect for the taxable year.

24 (11.5) Investment partnership.

25 (A) The term "investment partnership" means any
26 entity that is treated as a partnership for federal

1 income tax purposes that meets the following
2 requirements:

3 (i) no less than 90% of the partnership's cost
4 of its total assets consists of qualifying
5 investment securities, deposits at banks or other
6 financial institutions, and office space and
7 equipment reasonably necessary to carry on its
8 activities as an investment partnership;

9 (ii) no less than 90% of its gross income
10 consists of interest, dividends, and gains from
11 the sale or exchange of qualifying investment
12 securities; and

13 (iii) the partnership is not a dealer in
14 qualifying investment securities.

15 (B) For purposes of this paragraph (11.5), the term
16 "qualifying investment securities" includes all of the
17 following:

18 (i) common stock, including preferred or debt
19 securities convertible into common stock, and
20 preferred stock;

21 (ii) bonds, debentures, and other debt
22 securities;

23 (iii) foreign and domestic currency deposits
24 secured by federal, state, or local governmental
25 agencies;

26 (iv) mortgage or asset-backed securities

1 secured by federal, state, or local governmental
2 agencies;

3 (v) repurchase agreements and loan
4 participations;

5 (vi) foreign currency exchange contracts and
6 forward and futures contracts on foreign
7 currencies;

8 (vii) stock and bond index securities and
9 futures contracts and other similar financial
10 securities and futures contracts on those
11 securities;

12 (viii) options for the purchase or sale of any
13 of the securities, currencies, contracts, or
14 financial instruments described in items (i) to
15 (vii), inclusive;

16 (ix) regulated futures contracts;

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

25 (xi) derivatives; and

26 (xii) a partnership interest in another

1 partnership that is an investment partnership.

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

6 (A) arithmetic errors or incorrect computations on
7 the return or supporting schedules;

8 (B) entries on the wrong lines;

9 (C) omission of required supporting forms or
10 schedules or the omission of the information in whole
11 or in part called for thereon; and

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

16 (13) Nonbusiness income. The term "nonbusiness income"
17 means all income other than business income or
18 compensation.

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

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

25 (16) Partnership and partner. The term "partnership"
26 includes a syndicate, group, pool, joint venture or other

1 unincorporated organization, through or by means of which
2 any business, financial operation, or venture is carried
3 on, and which is not, within the meaning of this Act, a
4 trust or estate or a corporation; and the term "partner"
5 includes a member in such syndicate, group, pool, joint
6 venture or organization.

7 The term "partnership" includes any entity, including
8 a limited liability company formed under the Illinois
9 Limited Liability Company Act, classified as a partnership
10 for federal income tax purposes.

11 The term "partnership" does not include a syndicate,
12 group, pool, joint venture, or other unincorporated
13 organization established for the sole purpose of playing
14 the Illinois State Lottery.

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

25 (18) Person. The term "person" shall be construed to
26 mean and include an individual, a trust, estate,

1 partnership, association, firm, company, corporation,
2 limited liability company, or fiduciary. For purposes of
3 Section 1301 and 1302 of this Act, a "person" means (i) an
4 individual, (ii) a corporation, (iii) an officer, agent, or
5 employee of a corporation, (iv) a member, agent or employee
6 of a partnership, or (v) a member, manager, employee,
7 officer, director, or agent of a limited liability company
8 who in such capacity commits an offense specified in
9 Section 1301 and 1302.

10 (18A) Records. The term "records" includes all data
11 maintained by the taxpayer, whether on paper, microfilm,
12 microfiche, or any type of machine-sensible data
13 compilation.

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

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

17 (A) an individual (i) who is in this State for
18 other than a temporary or transitory purpose during the
19 taxable year; or (ii) who is domiciled in this State
20 but is absent from the State for a temporary or
21 transitory purpose during the taxable year;

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

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

26 (D) An irrevocable trust, the grantor of which was

1 domiciled in this State at the time such trust became
2 irrevocable. For purpose of this subparagraph, a trust
3 shall be considered irrevocable to the extent that the
4 grantor is not treated as the owner thereof under
5 Sections 671 through 678 of the Internal Revenue Code.

6 (21) Sales. The term "sales" means all gross receipts
7 of the taxpayer not allocated under Sections 301, 302 and
8 303.

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

21 (23) Taxable year. The term "taxable year" means the
22 calendar year, or the fiscal year ending during such
23 calendar year, upon the basis of which the base income is
24 computed under this Act. "Taxable year" means, in the case
25 of a return made for a fractional part of a year under the
26 provisions of this Act, the period for which such return is

1 made.

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

4 (25) International banking facility. The term
5 international banking facility shall have the same meaning
6 as is set forth in the Illinois Banking Act or as is set
7 forth in the laws of the United States or regulations of
8 the Board of Governors of the Federal Reserve System.

9 (26) Income Tax Return Preparer.

10 (A) The term "income tax return preparer" means any
11 person who prepares for compensation, or who employs
12 one or more persons to prepare for compensation, any
13 return of tax imposed by this Act or any claim for
14 refund of tax imposed by this Act. The preparation of a
15 substantial portion of a return or claim for refund
16 shall be treated as the preparation of that return or
17 claim for refund.

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

20 (i) furnish typing, reproducing, or other
21 mechanical assistance;

22 (ii) prepare returns or claims for refunds for
23 the employer by whom he or she is regularly and
24 continuously employed;

25 (iii) prepare as a fiduciary returns or claims
26 for refunds for any person; or

1 (iv) prepare claims for refunds for a taxpayer
2 in response to any notice of deficiency issued to
3 that taxpayer or in response to any waiver of
4 restriction after the commencement of an audit of
5 that taxpayer or of another taxpayer if a
6 determination in the audit of the other taxpayer
7 directly or indirectly affects the tax liability
8 of the taxpayer whose claims he or she is
9 preparing.

10 (27) Unitary business group.

11 (A) The term "unitary business group" means a group
12 of persons related through common ownership whose
13 business activities are integrated with, dependent
14 upon and contribute to each other. The group will not
15 include those members whose business activity outside
16 the United States is 80% or more of any such member's
17 total business activity; for purposes of this
18 paragraph and clause (a)(3)(B)(ii) of Section 304,
19 business activity within the United States shall be
20 measured by means of the factors ordinarily applicable
21 under subsections (a), (b), (c), (d), or (h) of Section
22 304 except that, in the case of members ordinarily
23 required to apportion business income by means of the 3
24 factor formula of property, payroll and sales
25 specified in subsection (a) of Section 304, including
26 the formula as weighted in subsection (h) of Section

1 304, such members shall not use the sales factor in the
2 computation and the results of the property and payroll
3 factor computations of subsection (a) of Section 304
4 shall be divided by 2 (by one if either the property or
5 payroll factor has a denominator of zero). The
6 computation required by the preceding sentence shall,
7 in each case, involve the division of the member's
8 property, payroll, or revenue miles in the United
9 States, insurance premiums on property or risk in the
10 United States, or financial organization business
11 income from sources within the United States, as the
12 case may be, by the respective worldwide figures for
13 such items. Common ownership in the case of
14 corporations is the direct or indirect control or
15 ownership of more than 50% of the outstanding voting
16 stock of the persons carrying on unitary business
17 activity. Unitary business activity can ordinarily be
18 illustrated where the activities of the members are:
19 (1) in the same general line (such as manufacturing,
20 wholesaling, retailing of tangible personal property,
21 insurance, transportation or finance); or (2) are
22 steps in a vertically structured enterprise or process
23 (such as the steps involved in the production of
24 natural resources, which might include exploration,
25 mining, refining, and marketing); and, in either
26 instance, the members are functionally integrated

1 through the exercise of strong centralized management
2 (where, for example, authority over such matters as
3 purchasing, financing, tax compliance, product line,
4 personnel, marketing and capital investment is not
5 left to each member).

6 (B) In no event, shall ~~however, will~~ any unitary
7 business group include members which are ordinarily
8 required to apportion business income under different
9 subsections of Section 304 except that for tax years
10 ending on or after December 31, 1987 this prohibition
11 shall not apply to a holding company that would
12 otherwise be a member of a unitary business group with
13 taxpayers that apportion business income under any of
14 subsections (b), (c), or (d) of Section 304 ~~unitary~~
15 ~~business group composed of one or more taxpayers all of~~
16 ~~which apportion business income pursuant to subsection~~
17 ~~(b) of Section 304, or all of which apportion business~~
18 ~~income pursuant to subsection (d) of Section 304, and a~~
19 ~~holding company of such single factor taxpayers (see~~
20 ~~definition of "financial organization" for rule~~
21 ~~regarding holding companies of financial~~
22 ~~organizations).~~ If a unitary business group would, but
23 for the preceding sentence, include members that are
24 ordinarily required to apportion business income under
25 different subsections of Section 304, then for each
26 subsection of Section 304 for which there are two or

1 more members, there shall be a separate unitary
2 business group composed of such members. For purposes
3 of the preceding two sentences, a member is "ordinarily
4 required to apportion business income" under a
5 particular subsection of Section 304 if it would be
6 required to use the apportionment method prescribed by
7 such subsection except for the fact that it derives
8 business income solely from Illinois. As used in this
9 paragraph, the phrase "United States" means only the 50
10 states and the District of Columbia, but does not
11 include any territory or possession of the United
12 States or any area over which the United States has
13 asserted jurisdiction or claimed exclusive rights with
14 respect to the exploration for or exploitation of
15 natural resources.

16 (C) Holding companies.

17 (i) For purposes of this subparagraph, a
18 "holding company" is a corporation (other than a
19 corporation that is a financial organization under
20 paragraph (8) of this subsection (a) of Section
21 1501 because it is a bank holding company under the
22 provisions of the Bank Holding Company Act of 1956
23 (12 U.S.C. 1841, et seq.) or because it is owned by
24 a bank or a bank holding company) that owns a
25 controlling interest in one or more other
26 taxpayers ("controlled taxpayers"); that, during

1 the period that includes the taxable year and the 2
2 immediately preceding taxable years or, if the
3 corporation was formed during the current or
4 immediately preceding taxable year, the taxable
5 years in which the corporation has been in
6 existence, derived substantially all its gross
7 income from dividends, interest, rents, royalties,
8 fees or other charges received from controlled
9 taxpayers for the provision of services, and gains
10 on the sale or other disposition of interests in
11 controlled taxpayers or in property leased or
12 licensed to controlled taxpayers or used by the
13 taxpayer in providing services to controlled
14 taxpayers; and that incurs no substantial expenses
15 other than expenses (including interest and other
16 costs of borrowing) incurred in connection with
17 the acquisition and holding of interests in
18 controlled taxpayers and in the provision of
19 services to controlled taxpayers or in the leasing
20 or licensing of property to controlled taxpayers.

21 (ii) The income of a holding company which is a
22 member of more than one unitary business group
23 shall be included in each unitary business group of
24 which it is a member on a pro rata basis, by
25 including in each unitary business group that
26 portion of the base income of the holding company

1 that bears the same proportion to the total base
2 income of the holding company as the gross receipts
3 of the unitary business group bears to the combined
4 gross receipts of all unitary business groups (in
5 both cases without regard to the holding company)
6 or on any other reasonable basis, consistently
7 applied.

8 (iii) A holding company shall apportion its
9 business income under the subsection of Section
10 304 used by the other members of its unitary
11 business group. The apportionment factors of a
12 holding company which would be a member of more
13 than one unitary business group shall be included
14 with the apportionment factors of each unitary
15 business group of which it is a member on a pro
16 rata basis using the same method used in clause
17 (ii).

18 (iv) The provisions of this subparagraph (C)
19 are intended to clarify existing law.

20 (D) If including the base income and factors of a
21 holding company in more than one unitary business group
22 under subparagraph (C) does not fairly reflect the
23 degree of integration between the holding company and
24 one or more of the unitary business groups, the
25 dependence of the holding company and one or more of
26 the unitary business groups upon each other, or the

1 contributions between the holding company and one or
2 more of the unitary business groups, the holding
3 company may petition the Director, under the
4 procedures provided under Section 304(f), for
5 permission to include all base income and factors of
6 the holding company only with members of a unitary
7 business group apportioning their business income
8 under one subsection of subsections (a), (b), (c), or
9 (d) of Section 304. If the petition is granted, the
10 holding company shall be included in a unitary business
11 group only with persons apportioning their business
12 income under the selected subsection of Section 304
13 until the Director grants a petition of the holding
14 company either to be included in more than one unitary
15 business group under subparagraph (C) or to include its
16 base income and factors only with members of a unitary
17 business group apportioning their business income
18 under a different subsection of Section 304.

19 (E) If the unitary business group members'
20 accounting periods differ, the common parent's
21 accounting period or, if there is no common parent, the
22 accounting period of the member that is expected to
23 have, on a recurring basis, the greatest Illinois
24 income tax liability must be used to determine whether
25 to use the apportionment method provided in subsection
26 (a) or subsection (h) of Section 304. The prohibition

1 against membership in a unitary business group for
2 taxpayers ordinarily required to apportion income
3 under different subsections of Section 304 does not
4 apply to taxpayers required to apportion income under
5 subsection (a) and subsection (h) of Section 304. The
6 provisions of this amendatory Act of 1998 apply to tax
7 years ending on or after December 31, 1998.

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

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

21 (b) Other definitions.

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

25 (A) Words importing the singular include and apply

1 to several persons, parties or things;

2 (B) Words importing the plural include the
3 singular; and

4 (C) Words importing the masculine gender include
5 the feminine as well.

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

12 (3) Other terms. Any term used in any Section of this
13 Act with respect to the application of, or in connection
14 with, the provisions of any other Section of this Act shall
15 have the same meaning as in such other Section.

16 (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08;
17 96-641, eff. 8-24-09.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.

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2		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