AN ACT concerning revenue.

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

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

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

Sec. 203. Base income defined.

(a) Individuals.

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

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

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

Code;

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

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

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

(D-5) An amount, to the extent not included in adjusted gross income, equal to the amount of money withdrawn by the taxpayer in the taxable year from a medical care savings account and the interest earned on the account in the taxable year of a withdrawal

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

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

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

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

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

equal to that subtraction modification.

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

(D-17) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to Sections 502 and 503, Title 32, United States Code as a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. For taxable years ending on or after December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being a member of any component of the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or thereafter by reason of being a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. The provisions of this subparagraph (E) ~~amendatory Act of the 92nd General Assembly~~ are exempt from the provisions of Section 250;

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

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

(G) The valuation limitation amount;

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

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

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

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

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

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

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

the Internal Revenue Code, plus, for taxable years ending on or after December 31, 2011, Section 45G(e)(3) of the Internal Revenue Code and, for taxable years ending on or after December 31, 2008, any amount included in gross income under Section 87 of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

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

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

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code or of any itemized deduction taken from adjusted gross income in the computation of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) for taxable years ending on or before

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

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

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

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

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

(AA) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then

an amount equal to that addition modification.

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

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

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

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

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

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

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

is exempt from the provisions of Section 250;

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

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

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

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

(b) Corporations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(E-12) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or

incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

This paragraph shall not apply to the following:

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

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

(a) the person during the same taxable

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

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

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

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

under Section 404 of this Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(M) For any taxpayer that is a financial

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Trusts and estates.

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

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

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

in the computation of taxable income;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

(G-13) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable

years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) or Section 203(c)(2)(G-13) of this Act;

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

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

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

(I) The valuation limitation amount;

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

(K) An amount equal to all amounts included in

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

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

subparagraph are exempt from the provisions of Section 250;

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

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

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

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

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

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

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

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

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

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

0.429); and

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

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

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

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

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

If the taxpayer continues to own property through

the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.

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

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

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

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

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

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

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

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

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

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

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

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

(d) Partnerships.

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

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

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

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

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

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

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

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

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

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

(D-7) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable

years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

of apportionment under Section 304(f).

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

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

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

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

This paragraph shall not apply to the following:

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

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

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

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

or

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

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

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

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

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

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

(E) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

incurred, directly or indirectly, to the same person. This subparagraph (S) is exempt from Section 250; and ~~.~~

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

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

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

Internal Revenue Code. Taxable income may be less than zero. However, for taxable years ending on or after December 31, 1986, net operating loss carryforwards from taxable years ending prior to December 31, 1986, may not exceed the sum of federal taxable income for the taxable year before net operating loss deduction, plus the excess of addition modifications over subtraction modifications for the taxable year. For taxable years ending prior to December 31, 1986, taxable income may never be an amount in excess of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal Revenue Code, provided that when taxable income of a corporation (other than a Subchapter S corporation), trust, or estate is less than zero and addition modifications, other than those provided by subparagraph (E) of paragraph (2) of subsection (b) for corporations or subparagraph (E) of paragraph (2) of subsection (c) for trusts and estates, exceed subtraction modifications, an addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

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

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

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

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

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

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

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

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

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

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

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

Subchapter S rules as in effect on July 1, 1982; and

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

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

(f) Valuation limitation amount.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 204. Standard Exemption.

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

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

2003, and for individuals the basic amount shall be:

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

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

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

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

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

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

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

(A) For taxpayer. An additional exemption of

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

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

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

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

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

death.

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

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

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

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

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

Sec. 205. Exempt organizations.

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

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

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

(d) Combat zone<u>, terrorist attack, and certain other deaths</u>

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

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

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

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

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

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

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

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

Sec. 207. Net Losses.

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

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

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

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

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

application of losses.

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

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

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

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

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

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

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

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

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

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

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

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

(35 ILCS 5/214)

Sec. 214. Tax credit for affordable housing donations.

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

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

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

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

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

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

(35 ILCS 5/220)

Sec. 220. Angel investment credit.

(a) As used in this Section:

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

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

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

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

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

investment, is any one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(1) it has its headquarters in this State;

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

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

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

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

(4) it is not principally engaged in real estate

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

(5) it has fewer than 100 employees;

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

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

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

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

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

calendar year.

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

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

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

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

(2) The report must also include:

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

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

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

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

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

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

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

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

(1) Property factor.

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

year.

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

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

(2) Payroll factor.

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

(B) Compensation is paid in this State if:

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

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

(iii) Some of the service is performed within this

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

(iv) Compensation paid to nonresident professional athletes.

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

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

(c) Definitions. For purposes of this subpart

(iv):

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

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

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

(A) Duty days shall also include days on

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Sales factor.

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

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

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

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

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

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

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

(ii) Place of utilization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Service address" means:

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

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

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

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

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

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

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

(c) Tangible personal property;

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

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

(f) Internet access service;

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

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

(h) "Ancillary services"; or

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

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

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

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

this State if either of the following applies:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) In the case where film or radio programming is broadcast by a station, a network, or a cable system for a fee or other remuneration from the person providing the programming, the portion of the broadcast service that is received by such station, network, or cable system in this State is measured by the portion of recipients of the broadcast located in this State. Accordingly, the amount of revenue related to such an arrangement that is included in the Illinois numerator of the sales factor is the total fee or other total remuneration from the person providing the programming related to that broadcast multiplied by the Illinois audience factor for that broadcast.

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

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

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

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

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

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

based on performance costs.

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

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

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

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

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

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

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

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

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

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

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

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

(b) Insurance companies.

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

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

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

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

(c) Financial organizations.

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

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

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

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

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

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

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

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

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

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

(i) The numerator shall be:

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

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

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

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

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

determining the floor amount.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

income from investment assets and activities in the investment account to be attributed to this State and included in the numerator is determined by multiplying all such income from such assets and activities by a fraction, the numerator of which is the gross income from such assets and activities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such assets and activities.

(B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this State and included in the numerator is determined by multiplying the amount described in subparagraph (A) of paragraph (1) of this subsection from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such funds and such securities.

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

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

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

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

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

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

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

(4) (Blank).

(5) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Separate accounting;

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

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

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

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

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

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

the sales factor;

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

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

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

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

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

Sec. 502. Returns and notices.

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

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

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

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

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

(b) Fiduciaries and receivers.

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

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

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

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

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

(c) Joint returns by husband and wife.

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

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

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

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

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

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

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

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

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

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

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

(4) Innocent spouses.

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

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

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

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

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

filing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 506. Federal Returns.

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

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

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

Revenue Code, or

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

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

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

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

Sec. 601. Payment on Due Date of Return.

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

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

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

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

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

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

(3) Foreign tax. The aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by subsections 201(a) and (b) of this Act shall be credited against the tax imposed by subsections 201(a) and (b) otherwise due under this Act for such taxable year. For taxable years ending prior to December 31, 2009, the aggregate credit provided under this paragraph shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year. For taxable years ending on or after December 31, 2009, the credit provided under this paragraph for tax paid to other states shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income that

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

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

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

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

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

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

Sec. 701. Requirement and Amount of Withholding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(35 ILCS 5/704A)

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

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

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

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

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

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

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

Friday.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(35 ILCS 5/709.5)

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

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

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

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

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

(c) Exemption from withholding.

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

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

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

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

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

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

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

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

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

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

Sec. 804. Failure to Pay Estimated Tax.

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

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

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

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

(c) Amount of Required Installments.

(1) Amount.

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

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

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

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

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

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

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

determined under paragraph (1),

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

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

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

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

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

(C) Applicable Percentage.

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

2nd..... 45%

3rd..... 67.5%

4th..... 90%

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

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

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

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

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

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

in the 4th month,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 909. Credits and Refunds.

(a) In general. In the case of any overpayment, the Department<u>, within the applicable period of limitations for a claim for refund,</u> may credit the amount of such overpayment, including any interest allowed thereon, against any liability

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 911. Limitations on Claims for Refund.

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

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

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

(b) Federal changes.

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

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

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

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

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

(d) Limit on amount of credit or refund.

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

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

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

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

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

(g) Special Period of Limitation with Respect to Net Loss Carrybacks. If the claim for refund relates to an overpayment attributable to a net loss carryback as provided by Section 207, in lieu of the 3 year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the net loss which results in such carryback (or, on and after August 13, 1999, with respect to a change in the carryover of an Article 2 credit to a taxable year resulting from the carryback of a Section 207 loss incurred in a taxable year beginning on or after January 1, 2000, the period shall be that period that ends 3 years after the time prescribed by law for filing the

return (including extensions of that time) for that subsequent taxable year), or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to such carryback. On and after August 13, 1999, if the claim for refund relates to an overpayment attributable to the carryover of an Article 2 credit, or of a Section 207 loss, earned, incurred (in a taxable year beginning on or after January 1, 2000), or used in a year for which a notification of a change affecting federal taxable income must be filed under subsection (b) of Section 506, the claim may be filed within the period prescribed in paragraph (1) of subsection (b) in respect of the year for which the notification is required. In the case of such a claim, the amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to the recomputation of the taxpayer's Article 2 credits, or Section 207 loss, earned, incurred, or used in the taxable year for which the notification is given.

(h) Claim for refund based on net loss. On and after August 23, 2002, no claim for refund shall be allowed to the extent the refund is the result of an amount of net loss incurred in any taxable year ending prior to December 31, 2002 under Section 207 of this Act that was not reported to the Department

within 3 years of the due date (including extensions) of the return for the loss year on either the original return filed by the taxpayer or on amended return or to the extent that the refund is the result of an amount of net loss incurred in any taxable year under Section 207 for which no return was filed within 3 years of the due date (including extensions) of the return for the loss year.

(Source: P.A. 94-836, eff. 6-6-06; 95-233, eff. 8-16-07.)

(35 ILCS 5/1002) (from Ch. 120, par. 10-1002)

Sec. 1002. Failure to Pay Tax.

(a) Negligence. If any part of a deficiency is due to negligence or intentional disregard of rules and regulations (but without intent to defraud) there shall be added to the tax as a penalty the amount prescribed by Section 3-5 of the Uniform Penalty and Interest Act.

(b) Fraud. If any part of a deficiency is due to fraud, there shall be added to the tax as a penalty the amount prescribed by Section 3-6 of the Uniform Penalty and Interest Act.

(c) Nonwillful failure to pay withholding tax. If any employer, without intent to evade or defeat any tax imposed by this Act or the payment thereof, shall fail to make a return and pay a tax withheld by him at the time required by or under the provisions of this Act, such employer shall be liable for such taxes and shall pay the same together with the interest

and the penalty provided by Sections 3-2 and 3-3, respectively, of the Uniform Penalty and Interest Act and such interest and penalty shall not be charged to or collected from the employee by the employer.

(d) Willful failure to collect and pay over tax. Any person required to collect, truthfully account for, and pay over the tax imposed by this Act who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, shall, in addition to other penalties provided by law, be liable for the penalty imposed by Section 3-7 of the Uniform Penalty and Interest Act.

(e) Penalties assessable.

(1) In general. Except as otherwise provided in this Act <u>or the Uniform Penalty and Interest Act</u>, the penalties provided by this Act <u>or by the Uniform Penalty and Interest Act</u> shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes and any reference in this Act to the tax imposed by this Act shall be deemed also to refer to penalties provided by this Act <u>or by the Uniform Penalty and Interest Act</u>.

(2) Procedure for assessing certain penalties. For the purposes of Article 9 any penalty under Section 804(a) or Section 1001 shall be deemed assessed upon the filing of the return for the taxable year.

(3) Procedure for assessing the penalty for failure to

file withholding returns or annual transmittal forms for wage and tax statements. The penalty imposed by Section 1004 will be asserted by the Department's issuance of a notice of deficiency. If taxpayer files a timely protest, the procedures of Section 908 will be followed. If taxpayer does not file a timely protest, the notice of deficiency will constitute an assessment pursuant to subsection (c) of Section 904.

(4) Assessment of penalty under Section 1005(a) ~~1005(b)~~. The penalty imposed under Section 1005(a) ~~1005(b)~~ shall be deemed assessed upon the assessment of the tax to which such penalty relates and shall be collected and paid on notice and demand in the same manner as the tax.

(f) Determination of deficiency. For purposes of subsections (a) and (b), the amount shown as the tax by the taxpayer upon his return shall be taken into account in determining the amount of the deficiency only if such return was filed on or before the last day prescribed by law for the filing of such return, including any extensions of the time for such filing.

(Source: P.A. 93-840, eff. 7-30-04.)

(35 ILCS 5/1101) (from Ch. 120, par. 11-1101)

Sec. 1101. Lien for Tax.

(a) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any

interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the State of Illinois upon all property and rights to property, whether real or personal, belonging to such person.

(b) Unless another date is specifically fixed by law, the lien imposed by subsection (a) of this Section shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

(c) Deficiency procedure. If the lien arises from an assessment pursuant to a notice of deficiency, such lien shall not attach and the notice referred to in this section shall not be filed until all proceedings in court for review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted.

(d) Notice of lien. The lien created by assessment shall terminate unless a notice of lien is filed, as provided in section 1103 hereof, within 3 years from the date all proceedings in court for the review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted. Where the lien results from the filing of a return without payment of the tax or penalty shown therein to be due, the lien shall terminate unless a notice of lien is filed within 3 years from the date

such return was filed with the Department. For the purposes of this subsection (d) ~~(c)~~, a tax return filed before the last day prescribed by law, including any extension thereof, shall be deemed to have been filed on such last day. The time limitation period on the Department's right to file a notice of lien shall not run during any period of time in which the order of any court has the effect of enjoining or restraining the Department from filing such notice of lien.

(Source: P.A. 86-905.)

(35 ILCS 5/1402) (from Ch. 120, par. 14-1402)

Sec. 1402. Notice.

Whenever notice is required by this Act, such notice may ~~shall~~, if not otherwise provided, be given or issued by mailing it by first-class ~~registered or certified~~ mail addressed to the person concerned at his last known address. Notice to a person who is under a legal disability or deceased, shall be mailed to his last known address or, if the Department has received notice of the existence of a fiduciary for such person or his estate, to such fiduciary.

(Source: P.A. 76-261.)

(35 ILCS 5/1405.4)

Sec. 1405.4. Tax refund inquiries; response. The Department of Revenue shall establish procedures to inform taxpayers of the status of their refunds and shall provide a

response to ~~respond in writing to~~ each inquiry concerning refunds under this Act within 10 days after receiving the inquiry. ~~The response shall include the date the inquiry was received, the file number assigned to the inquiry, and the name and telephone number of a person within the Department of Revenue whom the taxpayer may contact with further inquiries.~~

(Source: P.A. 89-89, eff. 6-30-95.)

(35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

Sec. 1501. Definitions.

(a) In general. When used in this Act, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(1) Business income. The term "business income" means all income that may be treated as apportionable business income under the Constitution of the United States. Business income is net of the deductions allocable thereto. Such term does not include compensation or the deductions allocable thereto. For each taxable year beginning on or after January 1, 2003, a taxpayer may elect to treat all income other than compensation as business income. This election shall be made in accordance with rules adopted by the Department and, once made, shall be irrevocable.

(1.5) Captive real estate investment trust:

(A) The term "captive real estate investment trust" means a corporation, trust, or association:

(i) that is considered a real estate investment trust for the taxable year under Section 856 of the Internal Revenue Code;

(ii) the certificates of beneficial interest or shares of which are not regularly traded on an established securities market; and

(iii) of which more than 50% of the voting power or value of the beneficial interest or shares, at any time during the last half of the taxable year, is owned or controlled, directly, indirectly, or constructively, by a single corporation.

(B) The term "captive real estate investment trust" does not include:

(i) a real estate investment trust of which more than 50% of the voting power or value of the beneficial interest or shares is owned or controlled, directly, indirectly, or constructively, by:

(a) a real estate investment trust, other than a captive real estate investment trust;

(b) a person who is exempt from taxation under Section 501 of the Internal Revenue Code, and who is not required to treat income received from the real estate investment trust as unrelated business taxable income under

Section 512 of the Internal Revenue Code;

(c) a listed Australian property trust, if no more than 50% of the voting power or value of the beneficial interest or shares of that trust, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single person;

(d) an entity organized as a trust, provided a listed Australian property trust described in subparagraph (c) owns or controls, directly or indirectly, or constructively, 75% or more of the voting power or value of the beneficial interests or shares of such entity; or

(e) an entity that is organized outside of the laws of the United States and that satisfies all of the following criteria:

(1) at least 75% of the entity's total asset value at the close of its taxable year is represented by real estate assets (as defined in Section 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any real estate investment trust), cash and cash equivalents, and U.S. Government securities;

(2) the entity is not subject to tax on amounts that are distributed to its beneficial owners or is exempt from entity-level taxation;

(3) the entity distributes at least 85% of its taxable income (as computed in the jurisdiction in which it is organized) to the holders of its shares or certificates of beneficial interest on an annual basis;

(4) either (i) the shares or beneficial interests of the entity are regularly traded on an established securities market or (ii) not more than 10% of the voting power or value in the entity is held, directly, indirectly, or constructively, by a single entity or individual; and

(5) the entity is organized in a country that has entered into a tax treaty with the United States; or

(ii) during its first taxable year for which it elects to be treated as a real estate investment trust under Section 856(c)(1) of the Internal Revenue Code, a real estate investment trust the certificates of beneficial interest or shares of

which are not regularly traded on an established securities market, but only if the certificates of beneficial interest or shares of the real estate investment trust are regularly traded on an established securities market prior to the earlier of the due date (including extensions) for filing its return under this Act for that first taxable year or the date it actually files that return.

(C) For the purposes of this subsection (1.5), the constructive ownership rules prescribed under Section 318(a) of the Internal Revenue Code, as modified by Section 856(d)(5) of the Internal Revenue Code, apply in determining the ownership of stock, assets, or net profits of any person.

(2) Commercial domicile. The term "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(3) Compensation. The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(4) Corporation. The term "corporation" includes associations, joint-stock companies, insurance companies and cooperatives. Any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, shall be treated as a corporation if it is so classified for federal income tax purposes.

(5) Department. The term "Department" means the Department of Revenue of this State.

(6) Director. The term "Director" means the Director of Revenue of this State.

(7) Fiduciary. The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, or any person acting in any fiduciary capacity for any person.

(8) Financial organization.

(A) The term "financial organization" means any bank, bank holding company, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, building and loan association, credit union, currency exchange, cooperative bank, small loan company, sales finance company, investment company, or any person which is owned by a bank or bank holding company. For the purpose of this Section a "person" will include only those persons which a bank holding company may acquire and hold an interest in, directly or indirectly, under the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.), except where interests in any person must be disposed of within certain required time limits under the Bank Holding Company Act of 1956.

(B) For purposes of subparagraph (A) of this paragraph, the term "bank" includes (i) any entity that

is regulated by the Comptroller of the Currency under the National Bank Act, or by the Federal Reserve Board, or by the Federal Deposit Insurance Corporation and (ii) any federally or State chartered bank operating as a credit card bank.

(C) For purposes of subparagraph (A) of this paragraph, the term "sales finance company" has the meaning provided in the following item (i) or (ii):

(i) A person primarily engaged in one or more of the following businesses: the business of purchasing customer receivables, the business of making loans upon the security of customer receivables, the business of making loans for the express purpose of funding purchases of tangible personal property or services by the borrower, or the business of finance leasing. For purposes of this item (i), "customer receivable" means:

(a) a retail installment contract or retail charge agreement within the meaning of the Sales Finance Agency Act, the Retail Installment Sales Act, or the Motor Vehicle Retail Installment Sales Act;

(b) an installment, charge, credit, or similar contract or agreement arising from the sale of tangible personal property or services in a transaction involving a deferred payment

price payable in one or more installments subsequent to the sale; or

(c) the outstanding balance of a contract or agreement described in provisions (a) or (b) of this item (i).

A customer receivable need not provide for payment of interest on deferred payments. A sales finance company may purchase a customer receivable from, or make a loan secured by a customer receivable to, the seller in the original transaction or to a person who purchased the customer receivable directly or indirectly from that seller.

(ii) A corporation meeting each of the following criteria:

(a) the corporation must be a member of an "affiliated group" within the meaning of Section 1504(a) of the Internal Revenue Code, determined without regard to Section 1504(b) of the Internal Revenue Code;

(b) more than 50% of the gross income of the corporation for the taxable year must be interest income derived from qualifying loans. A "qualifying loan" is a loan made to a member of the corporation's affiliated group that originates customer receivables (within the

meaning of item (i)) or to whom customer receivables originated by a member of the affiliated group have been transferred, to the extent the average outstanding balance of loans from that corporation to members of its affiliated group during the taxable year do not exceed the limitation amount for that corporation. The "limitation amount" for a corporation is the average outstanding balances during the taxable year of customer receivables (within the meaning of item (i)) originated by all members of the affiliated group. If the average outstanding balances of the loans made by a corporation to members of its affiliated group exceed the limitation amount, the interest income of that corporation from qualifying loans shall be equal to its interest income from loans to members of its affiliated groups times a fraction equal to the limitation amount divided by the average outstanding balances of the loans made by that corporation to members of its affiliated group;

(c) the total of all shareholder's equity (including, without limitation, paid-in capital on common and preferred stock and

retained earnings) of the corporation plus the total of all of its loans, advances, and other obligations payable or owed to members of its affiliated group may not exceed 20% of the total assets of the corporation at any time during the tax year; and

(d) more than 50% of all interest-bearing obligations of the affiliated group payable to persons outside the group determined in accordance with generally accepted accounting principles must be obligations of the corporation.

This amendatory Act of the 91st General Assembly is declaratory of existing law.

(D) Subparagraphs (B) and (C) of this paragraph are declaratory of existing law and apply retroactively, for all tax years beginning on or before December 31, 1996, to all original returns, to all amended returns filed no later than 30 days after the effective date of this amendatory Act of 1996, and to all notices issued on or before the effective date of this amendatory Act of 1996 under subsection (a) of Section 903, subsection (a) of Section 904, subsection (e) of Section 909, or Section 912. A taxpayer that is a "financial organization" that engages in any transaction with an affiliate shall be a "financial organization" for all

purposes of this Act.

(E) For all tax years beginning on or before December 31, 1996, a taxpayer that falls within the definition of a "financial organization" under subparagraphs (B) or (C) of this paragraph, but who does not fall within the definition of a "financial organization" under the Proposed Regulations issued by the Department of Revenue on July 19, 1996, may irrevocably elect to apply the Proposed Regulations for all of those years as though the Proposed Regulations had been lawfully promulgated, adopted, and in effect for all of those years. For purposes of applying subparagraphs (B) or (C) of this paragraph to all of those years, the election allowed by this subparagraph applies only to the taxpayer making the election and to those members of the taxpayer's unitary business group who are ordinarily required to apportion business income under the same subsection of Section 304 of this Act as the taxpayer making the election. No election allowed by this subparagraph shall be made under a claim filed under subsection (d) of Section 909 more than 30 days after the effective date of this amendatory Act of 1996.

(F) Finance Leases. For purposes of this subsection, a finance lease shall be treated as a loan or other extension of credit, rather than as a lease,

regardless of how the transaction is characterized for any other purpose, including the purposes of any regulatory agency to which the lessor is subject. A finance lease is any transaction in the form of a lease in which the lessee is treated as the owner of the leased asset entitled to any deduction for depreciation allowed under Section 167 of the Internal Revenue Code.

(9) Fiscal year. The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(9.5) Fixed place of business. The term "fixed place of business" has the same meaning as that term is given in Section 864 of the Internal Revenue Code and the related Treasury regulations.

(10) Includes and including. The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(11) Internal Revenue Code. The term "Internal Revenue Code" means the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes in effect for the taxable year.

(11.5) Investment partnership.

(A) The term "investment partnership" means any entity that is treated as a partnership for federal

income tax purposes that meets the following requirements:

(i) no less than 90% of the partnership's cost of its total assets consists of qualifying investment securities, deposits at banks or other financial institutions, and office space and equipment reasonably necessary to carry on its activities as an investment partnership;

(ii) no less than 90% of its gross income consists of interest, dividends, and gains from the sale or exchange of qualifying investment securities; and

(iii) the partnership is not a dealer in qualifying investment securities.

(B) For purposes of this paragraph (11.5), the term "qualifying investment securities" includes all of the following:

(i) common stock, including preferred or debt securities convertible into common stock, and preferred stock;

(ii) bonds, debentures, and other debt securities;

(iii) foreign and domestic currency deposits secured by federal, state, or local governmental agencies;

(iv) mortgage or asset-backed securities

secured by federal, state, or local governmental agencies;

(v) repurchase agreements and loan participations;

(vi) foreign currency exchange contracts and forward and futures contracts on foreign currencies;

(vii) stock and bond index securities and futures contracts and other similar financial securities and futures contracts on those securities;

(viii) options for the purchase or sale of any of the securities, currencies, contracts, or financial instruments described in items (i) to (vii), inclusive;

(ix) regulated futures contracts;

(x) commodities (not described in Section 1221(a)(1) of the Internal Revenue Code) or futures, forwards, and options with respect to such commodities, provided, however, that any item of a physical commodity to which title is actually acquired in the partnership's capacity as a dealer in such commodity shall not be a qualifying investment security;

(xi) derivatives; and

(xii) a partnership interest in another

partnership that is an investment partnership.

(12) Mathematical error. The term "mathematical error" includes the following types of errors, omissions, or defects in a return filed by a taxpayer which prevents acceptance of the return as filed for processing:

(A) arithmetic errors or incorrect computations on the return or supporting schedules;

(B) entries on the wrong lines;

(C) omission of required supporting forms or schedules or the omission of the information in whole or in part called for thereon; and

(D) an attempt to claim, exclude, deduct, or improperly report, in a manner directly contrary to the provisions of the Act and regulations thereunder any item of income, exemption, deduction, or credit.

(13) Nonbusiness income. The term "nonbusiness income" means all income other than business income or compensation.

(14) Nonresident. The term "nonresident" means a person who is not a resident.

(15) Paid, incurred and accrued. The terms "paid", "incurred" and "accrued" shall be construed according to the method of accounting upon the basis of which the person's base income is computed under this Act.

(16) Partnership and partner. The term "partnership" includes a syndicate, group, pool, joint venture or other

unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such syndicate, group, pool, joint venture or organization.

The term "partnership" includes any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, classified as a partnership for federal income tax purposes.

The term "partnership" does not include a syndicate, group, pool, joint venture, or other unincorporated organization established for the sole purpose of playing the Illinois State Lottery.

(17) Part-year resident. The term "part-year resident" means an individual who became a resident during the taxable year or ceased to be a resident during the taxable year. Under Section 1501(a)(20)(A)(i) residence commences with presence in this State for other than a temporary or transitory purpose and ceases with absence from this State for other than a temporary or transitory purpose. Under Section 1501(a)(20)(A)(ii) residence commences with the establishment of domicile in this State and ceases with the establishment of domicile in another State.

(18) Person. The term "person" shall be construed to mean and include an individual, a trust, estate,

partnership, association, firm, company, corporation, limited liability company, or fiduciary. For purposes of Section 1301 and 1302 of this Act, a "person" means (i) an individual, (ii) a corporation, (iii) an officer, agent, or employee of a corporation, (iv) a member, agent or employee of a partnership, or (v) a member, manager, employee, officer, director, or agent of a limited liability company who in such capacity commits an offense specified in Section 1301 and 1302.

(18A) Records. The term "records" includes all data maintained by the taxpayer, whether on paper, microfilm, microfiche, or any type of machine-sensible data compilation.

(19) Regulations. The term "regulations" includes rules promulgated and forms prescribed by the Department.

(20) Resident. The term "resident" means:

(A) an individual (i) who is in this State for other than a temporary or transitory purpose during the taxable year; or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year;

(B) The estate of a decedent who at his or her death was domiciled in this State;

(C) A trust created by a will of a decedent who at his death was domiciled in this State; and

(D) An irrevocable trust, the grantor of which was

domiciled in this State at the time such trust became irrevocable. For purpose of this subparagraph, a trust shall be considered irrevocable to the extent that the grantor is not treated as the owner thereof under Sections 671 through 678 of the Internal Revenue Code.

(21) Sales. The term "sales" means all gross receipts of the taxpayer not allocated under Sections 301, 302 and 303.

(22) State. The term "state" when applied to a jurisdiction other than this State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country, or any political subdivision of any of the foregoing. For purposes of the foreign tax credit under Section 601, the term "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing, effective for tax years ending on or after December 31, 1989.

(23) Taxable year. The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the base income is computed under this Act. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of this Act, the period for which such return is

made.

(24) Taxpayer. The term "taxpayer" means any person subject to the tax imposed by this Act.

(25) International banking facility. The term international banking facility shall have the same meaning as is set forth in the Illinois Banking Act or as is set forth in the laws of the United States or regulations of the Board of Governors of the Federal Reserve System.

(26) Income Tax Return Preparer.

(A) The term "income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this Act or any claim for refund of tax imposed by this Act. The preparation of a substantial portion of a return or claim for refund shall be treated as the preparation of that return or claim for refund.

(B) A person is not an income tax return preparer if all he or she does is

(i) furnish typing, reproducing, or other mechanical assistance;

(ii) prepare returns or claims for refunds for the employer by whom he or she is regularly and continuously employed;

(iii) prepare as a fiduciary returns or claims for refunds for any person; or

(iv) prepare claims for refunds for a taxpayer in response to any notice of deficiency issued to that taxpayer or in response to any waiver of restriction after the commencement of an audit of that taxpayer or of another taxpayer if a determination in the audit of the other taxpayer directly or indirectly affects the tax liability of the taxpayer whose claims he or she is preparing.

(27) Unitary business group.

(A) The term "unitary business group" means a group of persons related through common ownership whose business activities are integrated with, dependent upon and contribute to each other. The group will not include those members whose business activity outside the United States is 80% or more of any such member's total business activity; for purposes of this paragraph and clause (a)(3)(B)(ii) of Section 304, business activity within the United States shall be measured by means of the factors ordinarily applicable under subsections (a), (b), (c), (d), or (h) of Section 304 except that, in the case of members ordinarily required to apportion business income by means of the 3 factor formula of property, payroll and sales specified in subsection (a) of Section 304, including the formula as weighted in subsection (h) of Section

304, such members shall not use the sales factor in the computation and the results of the property and payroll factor computations of subsection (a) of Section 304 shall be divided by 2 (by one if either the property or payroll factor has a denominator of zero). The computation required by the preceding sentence shall, in each case, involve the division of the member's property, payroll, or revenue miles in the United States, insurance premiums on property or risk in the United States, or financial organization business income from sources within the United States, as the case may be, by the respective worldwide figures for such items. Common ownership in the case of corporations is the direct or indirect control or ownership of more than 50% of the outstanding voting stock of the persons carrying on unitary business activity. Unitary business activity can ordinarily be illustrated where the activities of the members are: (1) in the same general line (such as manufacturing, wholesaling, retailing of tangible personal property, insurance, transportation or finance); or (2) are steps in a vertically structured enterprise or process (such as the steps involved in the production of natural resources, which might include exploration, mining, refining, and marketing); and, in either instance, the members are functionally integrated

through the exercise of strong centralized management (where, for example, authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member).

(B) In no event, shall ~~however, will~~ any unitary business group include members which are ordinarily required to apportion business income under different subsections of Section 304 except that for tax years ending on or after December 31, 1987 this prohibition shall not apply to a holding company that would otherwise be a member of a unitary business group with taxpayers that apportion business income under any of subsections (b), (c), or (d) of Section 304 ~~unitary business group composed of one or more taxpayers all of which apportion business income pursuant to subsection (b) of Section 304, or all of which apportion business income pursuant to subsection (d) of Section 304, and a holding company of such single factor taxpayers (see definition of "financial organization" for rule regarding holding companies of financial organizations)~~. If a unitary business group would, but for the preceding sentence, include members that are ordinarily required to apportion business income under different subsections of Section 304, then for each subsection of Section 304 for which there are two or

more members, there shall be a separate unitary business group composed of such members. For purposes of the preceding two sentences, a member is "ordinarily required to apportion business income" under a particular subsection of Section 304 if it would be required to use the apportionment method prescribed by such subsection except for the fact that it derives business income solely from Illinois. As used in this paragraph, the phrase "United States" means only the 50 states and the District of Columbia, but does not include any territory or possession of the United States or any area over which the United States has asserted jurisdiction or claimed exclusive rights with respect to the exploration for or exploitation of natural resources.

(C) Holding companies.

(i) For purposes of this subparagraph, a "holding company" is a corporation (other than a corporation that is a financial organization under paragraph (8) of this subsection (a) of Section 1501 because it is a bank holding company under the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.) or because it is owned by a bank or a bank holding company) that owns a controlling interest in one or more other taxpayers ("controlled taxpayers"); that, during

the period that includes the taxable year and the 2 immediately preceding taxable years or, if the corporation was formed during the current or immediately preceding taxable year, the taxable years in which the corporation has been in existence, derived substantially all its gross income from dividends, interest, rents, royalties, fees or other charges received from controlled taxpayers for the provision of services, and gains on the sale or other disposition of interests in controlled taxpayers or in property leased or licensed to controlled taxpayers or used by the taxpayer in providing services to controlled taxpayers; and that incurs no substantial expenses other than expenses (including interest and other costs of borrowing) incurred in connection with the acquisition and holding of interests in controlled taxpayers and in the provision of services to controlled taxpayers or in the leasing or licensing of property to controlled taxpayers.

(ii) The income of a holding company which is a member of more than one unitary business group shall be included in each unitary business group of which it is a member on a pro rata basis, by including in each unitary business group that portion of the base income of the holding company

that bears the same proportion to the total base income of the holding company as the gross receipts of the unitary business group bears to the combined gross receipts of all unitary business groups (in both cases without regard to the holding company) or on any other reasonable basis, consistently applied.

(iii) A holding company shall apportion its business income under the subsection of Section 304 used by the other members of its unitary business group. The apportionment factors of a holding company which would be a member of more than one unitary business group shall be included with the apportionment factors of each unitary business group of which it is a member on a pro rata basis using the same method used in clause (ii).

(iv) The provisions of this subparagraph (C) are intended to clarify existing law.

(D) If including the base income and factors of a holding company in more than one unitary business group under subparagraph (C) does not fairly reflect the degree of integration between the holding company and one or more of the unitary business groups, the dependence of the holding company and one or more of the unitary business groups upon each other, or the

contributions between the holding company and one or more of the unitary business groups, the holding company may petition the Director, under the procedures provided under Section 304(f), for permission to include all base income and factors of the holding company only with members of a unitary business group apportioning their business income under one subsection of subsections (a), (b), (c), or (d) of Section 304. If the petition is granted, the holding company shall be included in a unitary business group only with persons apportioning their business income under the selected subsection of Section 304 until the Director grants a petition of the holding company either to be included in more than one unitary business group under subparagraph (C) or to include its base income and factors only with members of a unitary business group apportioning their business income under a different subsection of Section 304.

(E) If the unitary business group members' accounting periods differ, the common parent's accounting period or, if there is no common parent, the accounting period of the member that is expected to have, on a recurring basis, the greatest Illinois income tax liability must be used to determine whether to use the apportionment method provided in subsection (a) or subsection (h) of Section 304. The prohibition

against membership in a unitary business group for taxpayers ordinarily required to apportion income under different subsections of Section 304 does not apply to taxpayers required to apportion income under subsection (a) and subsection (h) of Section 304. The provisions of this amendatory Act of 1998 apply to tax years ending on or after December 31, 1998.

(28) Subchapter S corporation. The term "Subchapter S corporation" means a corporation for which there is in effect an election under Section 1362 of the Internal Revenue Code, or for which there is a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982.

(30) Foreign person. The term "foreign person" means any person who is a nonresident alien individual and any nonindividual entity, regardless of where created or organized, whose business activity outside the United States is 80% or more of the entity's total business activity.

(b) Other definitions.

(1) Words denoting number, gender, and so forth, when used in this Act, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(A) Words importing the singular include and apply

to several persons, parties or things;

(B) Words importing the plural include the singular; and

(C) Words importing the masculine gender include the feminine as well.

(2) "Company" or "association" as including successors and assigns. The word "company" or "association", when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company or association", and in like manner as if these last-named words, or words of similar import, were expressed.

(3) Other terms. Any term used in any Section of this Act with respect to the application of, or in connection with, the provisions of any other Section of this Act shall have the same meaning as in such other Section.

(Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08; 96-641, eff. 8-24-09.)

Section 99. Effective date. This Act takes effect upon becoming law.

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Statutes amended in order of appearance