



Sen. Michael Noland

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1 AMENDMENT TO SENATE BILL 2912

2 AMENDMENT NO. _____. Amend Senate Bill 2912 by replacing
3 everything after the enacting clause with the following:

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

7 (20 ILCS 2505/2505-800 new)

8 Sec. 2505-800. Credit memorandum. Notwithstanding the
9 provisions of any other Act to the contrary, if the Department,
10 after review of its records and without the submission by a
11 taxpayer of any additional documentation, returns, or
12 schedules, determines that an overpayment has occurred on an
13 original return filed under the Electricity Excise Tax Law, the
14 Telecommunications Excise Tax Act, the Simplified Municipal
15 Telecommunications Tax Act, the Telecommunications
16 Infrastructure Maintenance Fee Act, the Gas Revenue Tax Act,

1 the Gas Use Tax Law, the Hotel Operators' Occupation Tax Act,
2 the Cigarette Tax Act, the Cigarette Use Tax Act, the Tobacco
3 Products Tax Act of 1995, the Bingo License and Tax Act, the
4 Charitable Games Act, the Illinois Pull Tabs and Jar Games Act,
5 and the Liquor Control Act of 1934, it shall issue a credit
6 memorandum to the taxpayer without the necessity of the
7 taxpayer filing a claim for credit. The time period during
8 which the Department may issue a credit memorandum under this
9 Section shall be limited to the period of 3 years from the date
10 of the overpayment by the taxpayer. Issuance of a credit
11 memorandum under this Section is subject to the offset
12 provisions of Section 2505-275 of this Act.

13 (30 ILCS 210/8 rep.)

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

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

18 (30 ILCS 500/50-11)

19 Sec. 50-11. Debt delinquency.

20 (a) No person shall submit a bid for or enter into a
21 contract with a State agency under this Code if that person
22 knows or should know that he or she or any affiliate is
23 delinquent in the payment of any debt to the State, unless the

1 person or affiliate has entered into a deferred payment plan to
2 pay off the debt. For purposes of this Section, the phrase
3 "delinquent in the payment of any debt" shall be determined by
4 the Debt Collection Board or, after the effective date of this
5 amendatory Act of the 95th General Assembly, the Department of
6 Revenue. For purposes of this Section, the term "affiliate"
7 means any entity that (1) directly, indirectly, or
8 constructively controls another entity, (2) is directly,
9 indirectly, or constructively controlled by another entity, or
10 (3) is subject to the control of a common entity. For purposes
11 of this subsection (a), a person controls an entity if the
12 person owns, directly or individually, more than 10% of the
13 voting securities of that entity. As used in this subsection
14 (a), the term "voting security" means a security that (1)
15 confers upon the holder the right to vote for the election of
16 members of the board of directors or similar governing body of
17 the business or (2) is convertible into, or entitles the holder
18 to receive upon its exercise, a security that confers such a
19 right to vote. A general partnership interest is a voting
20 security.

21 (b) Every bid submitted to and contract executed by the
22 State shall contain a certification by the bidder or contractor
23 that the contractor and its affiliate is not barred from being
24 awarded a contract under this Section and that the contractor
25 acknowledges that the contracting State agency may declare the
26 contract void if the certification completed pursuant to this

1 subsection (b) is false.

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

3 (30 ILCS 500/50-60)

4 Sec. 50-60. Voidable contracts.

5 (a) If any contract is entered into or purchase or
6 expenditure of funds is made in violation of this Code or any
7 other law, the contract may be declared void by the chief
8 procurement officer or may be ratified and affirmed, provided
9 the chief procurement officer determines that ratification is
10 in the best interests of the State. If the contract is ratified
11 and affirmed, it shall be without prejudice to the State's
12 rights to any appropriate damages.

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

22 (c) If, during the term of a contract, the contracting
23 agency determines that the contractor is in violation of
24 Section 50-10.5 of this Code, the contracting agency shall
25 declare the contract void.

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

2 Section 20. The Illinois Income Tax Act is amended by
3 changing Sections 201, 203, 204, 205, 214, 304, 502, 506, 601,
4 701, 702, 703, 704A, 804, 909, 911, 1002, 1101, and 1405.4 as
5 follows:

6 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

7 Sec. 201. Tax Imposed.

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

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

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

22 (2) In the case of an individual, trust or estate, for
23 taxable years beginning prior to July 1, 1989 and ending
24 after June 30, 1989, an amount equal to the sum of (i) 2

1 1/2% of the taxpayer's net income for the period prior to
2 July 1, 1989, as calculated under Section 202.3, and (ii)
3 3% of the taxpayer's net income for the period after June
4 30, 1989, as calculated under Section 202.3.

5 (3) In the case of an individual, trust or estate, for
6 taxable years beginning after June 30, 1989, an amount
7 equal to 3% of the taxpayer's net income for the taxable
8 year.

9 (4) (Blank).

10 (5) (Blank).

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

14 (7) In the case of a corporation, for taxable years
15 beginning prior to July 1, 1989 and ending after June 30,
16 1989, an amount equal to the sum of (i) 4% of the
17 taxpayer's net income for the period prior to July 1, 1989,
18 as calculated under Section 202.3, and (ii) 4.8% of the
19 taxpayer's net income for the period after June 30, 1989,
20 as calculated under Section 202.3.

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

24 (c) Personal Property Tax Replacement Income Tax.
25 Beginning on July 1, 1979 and thereafter, in addition to such
26 income tax, there is also hereby imposed the Personal Property

1 Tax Replacement Income Tax measured by net income on every
2 corporation (including Subchapter S corporations), partnership
3 and trust, for each taxable year ending after June 30, 1979.
4 Such taxes are imposed on the privilege of earning or receiving
5 income in or as a resident of this State. The Personal Property
6 Tax Replacement Income Tax shall be in addition to the income
7 tax imposed by subsections (a) and (b) of this Section and in
8 addition to all other occupation or privilege taxes imposed by
9 this State or by any municipal corporation or political
10 subdivision thereof.

11 (d) Additional Personal Property Tax Replacement Income
12 Tax Rates. The personal property tax replacement income tax
13 imposed by this subsection and subsection (c) of this Section
14 in the case of a corporation, other than a Subchapter S
15 corporation and except as adjusted by subsection (d-1), shall
16 be an additional amount equal to 2.85% of such taxpayer's net
17 income for the taxable year, except that beginning on January
18 1, 1981, and thereafter, the rate of 2.85% specified in this
19 subsection shall be reduced to 2.5%, and in the case of a
20 partnership, trust or a Subchapter S corporation shall be an
21 additional amount equal to 1.5% of such taxpayer's net income
22 for the taxable year.

23 (d-1) Rate reduction for certain foreign insurers. In the
24 case of a foreign insurer, as defined by Section 35A-5 of the
25 Illinois Insurance Code, whose state or country of domicile
26 imposes on insurers domiciled in Illinois a retaliatory tax

1 (excluding any insurer whose premiums from reinsurance assumed
2 are 50% or more of its total insurance premiums as determined
3 under paragraph (2) of subsection (b) of Section 304, except
4 that for purposes of this determination premiums from
5 reinsurance do not include premiums from inter-affiliate
6 reinsurance arrangements), beginning with taxable years ending
7 on or after December 31, 1999, the sum of the rates of tax
8 imposed by subsections (b) and (d) shall be reduced (but not
9 increased) to the rate at which the total amount of tax imposed
10 under this Act, net of all credits allowed under this Act,
11 shall equal (i) the total amount of tax that would be imposed
12 on the foreign insurer's net income allocable to Illinois for
13 the taxable year by such foreign insurer's state or country of
14 domicile if that net income were subject to all income taxes
15 and taxes measured by net income imposed by such foreign
16 insurer's state or country of domicile, net of all credits
17 allowed or (ii) a rate of zero if no such tax is imposed on such
18 income by the foreign insurer's state of domicile. For the
19 purposes of this subsection (d-1), an inter-affiliate includes
20 a mutual insurer under common management.

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

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

1 (B) the privilege tax imposed by Section 409 of the
2 Illinois Insurance Code, the fire insurance company
3 tax imposed by Section 12 of the Fire Investigation
4 Act, and the fire department taxes imposed under
5 Section 11-10-1 of the Illinois Municipal Code,
6 equals 1.25% for taxable years ending prior to December 31,
7 2003, or 1.75% for taxable years ending on or after
8 December 31, 2003, of the net taxable premiums written for
9 the taxable year, as described by subsection (1) of Section
10 409 of the Illinois Insurance Code. This paragraph will in
11 no event increase the rates imposed under subsections (b)
12 and (d).

13 (2) Any reduction in the rates of tax imposed by this
14 subsection shall be applied first against the rates imposed
15 by subsection (b) and only after the tax imposed by
16 subsection (a) net of all credits allowed under this
17 Section other than the credit allowed under subsection (i)
18 has been reduced to zero, against the rates imposed by
19 subsection (d).

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

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

25 (1) A taxpayer shall be allowed a credit equal to .5%
26 of the basis of qualified property placed in service during

1 the taxable year, provided such property is placed in
2 service on or after July 1, 1984. There shall be allowed an
3 additional credit equal to .5% of the basis of qualified
4 property placed in service during the taxable year,
5 provided such property is placed in service on or after
6 July 1, 1986, and the taxpayer's base employment within
7 Illinois has increased by 1% or more over the preceding
8 year as determined by the taxpayer's employment records
9 filed with the Illinois Department of Employment Security.
10 Taxpayers who are new to Illinois shall be deemed to have
11 met the 1% growth in base employment for the first year in
12 which they file employment records with the Illinois
13 Department of Employment Security. The provisions added to
14 this Section by Public Act 85-1200 (and restored by Public
15 Act 87-895) shall be construed as declaratory of existing
16 law and not as a new enactment. If, in any year, the
17 increase in base employment within Illinois over the
18 preceding year is less than 1%, the additional credit shall
19 be limited to that percentage times a fraction, the
20 numerator of which is .5% and the denominator of which is
21 1%, but shall not exceed .5%. The investment credit shall
22 not be allowed to the extent that it would reduce a
23 taxpayer's liability in any tax year below zero, nor may
24 any credit for qualified property be allowed for any year
25 other than the year in which the property was placed in
26 service in Illinois. For tax years ending on or after

1 December 31, 1987, and on or before December 31, 1988, the
2 credit shall be allowed for the tax year in which the
3 property is placed in service, or, if the amount of the
4 credit exceeds the tax liability for that year, whether it
5 exceeds the original liability or the liability as later
6 amended, such excess may be carried forward and applied to
7 the tax liability of the 5 taxable years following the
8 excess credit years if the taxpayer (i) makes investments
9 which cause the creation of a minimum of 2,000 full-time
10 equivalent jobs in Illinois, (ii) is located in an
11 enterprise zone established pursuant to the Illinois
12 Enterprise Zone Act and (iii) is certified by the
13 Department of Commerce and Community Affairs (now
14 Department of Commerce and Economic Opportunity) as
15 complying with the requirements specified in clause (i) and
16 (ii) by July 1, 1986. The Department of Commerce and
17 Community Affairs (now Department of Commerce and Economic
18 Opportunity) shall notify the Department of Revenue of all
19 such certifications immediately. For tax years ending
20 after December 31, 1988, the credit shall be allowed for
21 the tax year in which the property is placed in service,
22 or, if the amount of the credit exceeds the tax liability
23 for that year, whether it exceeds the original liability or
24 the liability as later amended, such excess may be carried
25 forward and applied to the tax liability of the 5 taxable
26 years following the excess credit years. The credit shall

1 be applied to the earliest year for which there is a
2 liability. If there is credit from more than one tax year
3 that is available to offset a liability, earlier credit
4 shall be applied first.

5 (2) The term "qualified property" means property
6 which:

7 (A) is tangible, whether new or used, including
8 buildings and structural components of buildings and
9 signs that are real property, but not including land or
10 improvements to real property that are not a structural
11 component of a building such as landscaping, sewer
12 lines, local access roads, fencing, parking lots, and
13 other appurtenances;

14 (B) is depreciable pursuant to Section 167 of the
15 Internal Revenue Code, except that "3-year property"
16 as defined in Section 168(c)(2)(A) of that Code is not
17 eligible for the credit provided by this subsection
18 (e);

19 (C) is acquired by purchase as defined in Section
20 179(d) of the Internal Revenue Code;

21 (D) is used in Illinois by a taxpayer who is
22 primarily engaged in manufacturing, or in mining coal
23 or fluorite, or in retailing, or was placed in service
24 on or after July 1, 2006 in a River Edge Redevelopment
25 Zone established pursuant to the River Edge
26 Redevelopment Zone Act; and

1 (E) has not previously been used in Illinois in
2 such a manner and by such a person as would qualify for
3 the credit provided by this subsection (e) or
4 subsection (f).

5 (3) For purposes of this subsection (e),
6 "manufacturing" means the material staging and production
7 of tangible personal property by procedures commonly
8 regarded as manufacturing, processing, fabrication, or
9 assembling which changes some existing material into new
10 shapes, new qualities, or new combinations. For purposes of
11 this subsection (e) the term "mining" shall have the same
12 meaning as the term "mining" in Section 613(c) of the
13 Internal Revenue Code. For purposes of this subsection (e),
14 the term "retailing" means the sale of tangible personal
15 property or services rendered in conjunction with the sale
16 of tangible consumer goods or commodities.

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

20 (5) If the basis of the property for federal income tax
21 depreciation purposes is increased after it has been placed
22 in service in Illinois by the taxpayer, the amount of such
23 increase shall be deemed property placed in service on the
24 date of such increase in basis.

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

1 (7) If during any taxable year, any property ceases to
2 be qualified property in the hands of the taxpayer within
3 48 months after being placed in service, or the situs of
4 any qualified property is moved outside Illinois within 48
5 months after being placed in service, the Personal Property
6 Tax Replacement Income Tax for such taxable year shall be
7 increased. Such increase shall be determined by (i)
8 recomputing the investment credit which would have been
9 allowed for the year in which credit for such property was
10 originally allowed by eliminating such property from such
11 computation and, (ii) subtracting such recomputed credit
12 from the amount of credit previously allowed. For the
13 purposes of this paragraph (7), a reduction of the basis of
14 qualified property resulting from a redetermination of the
15 purchase price shall be deemed a disposition of qualified
16 property to the extent of such reduction.

17 (8) Unless the investment credit is extended by law,
18 the basis of qualified property shall not include costs
19 incurred after December 31, 2008, except for costs incurred
20 pursuant to a binding contract entered into on or before
21 December 31, 2008.

22 (9) Each taxable year ending before December 31, 2000,
23 a partnership may elect to pass through to its partners the
24 credits to which the partnership is entitled under this
25 subsection (e) for the taxable year. A partner may use the
26 credit allocated to him or her under this paragraph only

1 against the tax imposed in subsections (c) and (d) of this
2 Section. If the partnership makes that election, those
3 credits shall be allocated among the partners in the
4 partnership in accordance with the rules set forth in
5 Section 704(b) of the Internal Revenue Code, and the rules
6 promulgated under that Section, and the allocated amount of
7 the credits shall be allowed to the partners for that
8 taxable year. The partnership shall make this election on
9 its Personal Property Tax Replacement Income Tax return for
10 that taxable year. The election to pass through the credits
11 shall be irrevocable.

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

26 (f) Investment credit; Enterprise Zone; River Edge

1 Redevelopment Zone.

2 (1) A taxpayer shall be allowed a credit against the
3 tax imposed by subsections (a) and (b) of this Section for
4 investment in qualified property which is placed in service
5 in an Enterprise Zone created pursuant to the Illinois
6 Enterprise Zone Act or, for property placed in service on
7 or after July 1, 2006, a River Edge Redevelopment Zone
8 established pursuant to the River Edge Redevelopment Zone
9 Act. For partners, shareholders of Subchapter S
10 corporations, and owners of limited liability companies,
11 if the liability company is treated as a partnership for
12 purposes of federal and State income taxation, there shall
13 be allowed a credit under this subsection (f) to be
14 determined in accordance with the determination of income
15 and distributive share of income under Sections 702 and 704
16 and Subchapter S of the Internal Revenue Code. The credit
17 shall be .5% of the basis for such property. The credit
18 shall be available only in the taxable year in which the
19 property is placed in service in the Enterprise Zone or
20 River Edge Redevelopment Zone and shall not be allowed to
21 the extent that it would reduce a taxpayer's liability for
22 the tax imposed by subsections (a) and (b) of this Section
23 to below zero. For tax years ending on or after December
24 31, 1985, the credit shall be allowed for the tax year in
25 which the property is placed in service, or, if the amount
26 of the credit exceeds the tax liability for that year,

1 whether it exceeds the original liability or the liability
2 as later amended, such excess may be carried forward and
3 applied to the tax liability of the 5 taxable years
4 following the excess credit year. The credit shall be
5 applied to the earliest year for which there is a
6 liability. If there is credit from more than one tax year
7 that is available to offset a liability, the credit
8 accruing first in time shall be applied first.

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

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

12 (B) is depreciable pursuant to Section 167 of the
13 Internal Revenue Code, except that "3-year property"
14 as defined in Section 168(c)(2)(A) of that Code is not
15 eligible for the credit provided by this subsection
16 (f);

17 (C) is acquired by purchase as defined in Section
18 179(d) of the Internal Revenue Code;

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

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

25 (3) The basis of qualified property shall be the basis
26 used to compute the depreciation deduction for federal

1 income tax purposes.

2 (4) If the basis of the property for federal income tax
3 depreciation purposes is increased after it has been placed
4 in service in the Enterprise Zone or River Edge
5 Redevelopment Zone by the taxpayer, the amount of such
6 increase shall be deemed property placed in service on the
7 date of such increase in basis.

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

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

1 (7) There shall be allowed an additional credit equal
2 to 0.5% of the basis of qualified property placed in
3 service during the taxable year in a River Edge
4 Redevelopment Zone, provided such property is placed in
5 service on or after July 1, 2006, and the taxpayer's base
6 employment within Illinois has increased by 1% or more over
7 the preceding year as determined by the taxpayer's
8 employment records filed with the Illinois Department of
9 Employment Security. Taxpayers who are new to Illinois
10 shall be deemed to have met the 1% growth in base
11 employment for the first year in which they file employment
12 records with the Illinois Department of Employment
13 Security. If, in any year, the increase in base employment
14 within Illinois over the preceding year is less than 1%,
15 the additional credit shall be limited to that percentage
16 times a fraction, the numerator of which is 0.5% and the
17 denominator of which is 1%, but shall not exceed 0.5%.

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

20 (1) A taxpayer conducting a trade or business in an
21 enterprise zone or a High Impact Business designated by the
22 Department of Commerce and Economic Opportunity or for
23 taxable years ending on or after December 31, 2006, in a
24 River Edge Redevelopment Zone conducting a trade or
25 business in a federally designated Foreign Trade Zone or
26 Sub-Zone shall be allowed a credit against the tax imposed

1 by subsections (a) and (b) of this Section in the amount of
2 \$500 per eligible employee hired to work in the zone during
3 the taxable year.

4 (2) To qualify for the credit:

5 (A) the taxpayer must hire 5 or more eligible
6 employees to work in an enterprise zone, River Edge
7 Redevelopment Zone, or federally designated Foreign
8 Trade Zone or Sub-Zone during the taxable year;

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

18 (C) the eligible employees must be employed 180
19 consecutive days in order to be deemed hired for
20 purposes of this subsection.

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

22 (A) Certified by the Department of Commerce and
23 Economic Opportunity as "eligible for services"
24 pursuant to regulations promulgated in accordance with
25 Title II of the Job Training Partnership Act, Training
26 Services for the Disadvantaged or Title III of the Job

1 Training Partnership Act, Employment and Training
2 Assistance for Dislocated Workers Program.

3 (B) Hired after the enterprise zone, River Edge
4 Redevelopment Zone, or federally designated Foreign
5 Trade Zone or Sub-Zone was designated or the trade or
6 business was located in that zone, whichever is later.

7 (C) Employed in the enterprise zone, River Edge
8 Redevelopment Zone, or Foreign Trade Zone or Sub-Zone.
9 An employee is employed in an enterprise zone, River
10 Edge Redevelopment Zone, or federally designated
11 Foreign Trade Zone or Sub-Zone if his services are
12 rendered there or it is the base of operations for the
13 services performed.

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

16 (4) For tax years ending on or after December 31, 1985
17 and prior to December 31, 1988, the credit shall be allowed
18 for the tax year in which the eligible employees are hired.
19 For tax years ending on or after December 31, 1988, the
20 credit shall be allowed for the tax year immediately
21 following the tax year in which the eligible employees are
22 hired. If the amount of the credit exceeds the tax
23 liability for that year, whether it exceeds the original
24 liability or the liability as later amended, such excess
25 may be carried forward and applied to the tax liability of
26 the 5 taxable years following the excess credit year. The

1 credit shall be applied to the earliest year for which
2 there is a liability. If there is credit from more than one
3 tax year that is available to offset a liability, earlier
4 credit shall be applied first.

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

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

10 (h) Investment credit; High Impact Business.

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

1 reduce a taxpayer's liability for the tax imposed by
2 subsections (a) and (b) of this Section to below zero. The
3 credit applicable to such investments shall be taken in the
4 taxable year in which such investments have been completed.
5 The credit for additional investments beyond the minimum
6 investment by a designated high impact business authorized
7 under subdivision (a) (3) (A) of Section 5.5 of the Illinois
8 Enterprise Zone Act shall be available only in the taxable
9 year in which the property is placed in service and shall
10 not be allowed to the extent that it would reduce a
11 taxpayer's liability for the tax imposed by subsections (a)
12 and (b) of this Section to below zero. For tax years ending
13 on or after December 31, 1987, the credit shall be allowed
14 for the tax year in which the property is placed in
15 service, or, if the amount of the credit exceeds the tax
16 liability for that year, whether it exceeds the original
17 liability or the liability as later amended, such excess
18 may be carried forward and applied to the tax liability of
19 the 5 taxable years following the excess credit year. The
20 credit shall be applied to the earliest year for which
21 there is a liability. If there is credit from more than one
22 tax year that is available to offset a liability, the
23 credit accruing first in time shall be applied first.

24 Changes made in this subdivision (h) (1) by Public Act
25 88-670 restore changes made by Public Act 85-1182 and
26 reflect existing law.

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

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

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

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

11 (D) is not eligible for the Enterprise Zone
12 Investment Credit provided by subsection (f) of this
13 Section.

14 (3) The basis of qualified property shall be the basis
15 used to compute the depreciation deduction for federal
16 income tax purposes.

17 (4) If the basis of the property for federal income tax
18 depreciation purposes is increased after it has been placed
19 in service in a federally designated Foreign Trade Zone or
20 Sub-Zone located in Illinois by the taxpayer, the amount of
21 such increase shall be deemed property placed in service on
22 the date of such increase in basis.

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

25 (6) If during any taxable year ending on or before
26 December 31, 1996, any property ceases to be qualified

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

17 (7) Beginning with tax years ending after December 31,
18 1996, if a taxpayer qualifies for the credit under this
19 subsection (h) and thereby is granted a tax abatement and
20 the taxpayer relocates its entire facility in violation of
21 the explicit terms and length of the contract under Section
22 18-183 of the Property Tax Code, the tax imposed under
23 subsections (a) and (b) of this Section shall be increased
24 for the taxable year in which the taxpayer relocated its
25 facility by an amount equal to the amount of credit
26 received by the taxpayer under this subsection (h).

1 (i) Credit for Personal Property Tax Replacement Income
2 Tax. For tax years ending prior to December 31, 2003, a credit
3 shall be allowed against the tax imposed by subsections (a) and
4 (b) of this Section for the tax imposed by subsections (c) and
5 (d) of this Section. This credit shall be computed by
6 multiplying the tax imposed by subsections (c) and (d) of this
7 Section by a fraction, the numerator of which is base income
8 allocable to Illinois and the denominator of which is Illinois
9 base income, and further multiplying the product by the tax
10 rate imposed by subsections (a) and (b) of this Section.

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

25 If, during any taxable year ending on or after December 31,
26 1986, the tax imposed by subsections (c) and (d) of this

1 Section for which a taxpayer has claimed a credit under this
2 subsection (i) is reduced, the amount of credit for such tax
3 shall also be reduced. Such reduction shall be determined by
4 recomputing the credit to take into account the reduced tax
5 imposed by subsections (c) and (d). If any portion of the
6 reduced amount of credit has been carried to a different
7 taxable year, an amended return shall be filed for such taxable
8 year to reduce the amount of credit claimed.

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

1 Internal Revenue Code.

2 Any credit allowed under this subsection which is unused in
3 the year the credit is earned may be carried forward to each of
4 the 5 taxable years following the year for which the credit is
5 first computed until it is used. This credit shall be applied
6 first to the earliest year for which there is a liability. If
7 there is a credit under this subsection from more than one tax
8 year that is available to offset a liability the earliest
9 credit arising under this subsection shall be applied first. No
10 carryforward credit may be claimed in any tax year ending on or
11 after December 31, 2003.

12 (k) Research and development credit.

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

1 Sections 702 and 704 and subchapter S of the Internal Revenue
2 Code.

3 For purposes of this subsection, "qualifying expenditures"
4 means the qualifying expenditures as defined for the federal
5 credit for increasing research activities which would be
6 allowable under Section 41 of the Internal Revenue Code and
7 which are conducted in this State, "qualifying expenditures for
8 increasing research activities in this State" means the excess
9 of qualifying expenditures for the taxable year in which
10 incurred over qualifying expenditures for the base period,
11 "qualifying expenditures for the base period" means the average
12 of the qualifying expenditures for each year in the base
13 period, and "base period" means the 3 taxable years immediately
14 preceding the taxable year for which the determination is being
15 made.

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

24 If an unused credit is carried forward to a given year from
25 2 or more earlier years, that credit arising in the earliest
26 year will be applied first against the tax liability for the

1 given year. If a tax liability for the given year still
2 remains, the credit from the next earliest year will then be
3 applied, and so on, until all credits have been used or no tax
4 liability for the given year remains. Any remaining unused
5 credit or credits then will be carried forward to the next
6 following year in which a tax liability is incurred, except
7 that no credit can be carried forward to a year which is more
8 than 5 years after the year in which the expense for which the
9 credit is given was incurred.

10 No inference shall be drawn from this amendatory Act of the
11 91st General Assembly in construing this Section for taxable
12 years beginning before January 1, 1999.

13 (1) Environmental Remediation Tax Credit.

14 (i) For tax years ending after December 31, 1997 and on
15 or before December 31, 2001, a taxpayer shall be allowed a
16 credit against the tax imposed by subsections (a) and (b)
17 of this Section for certain amounts paid for unreimbursed
18 eligible remediation costs, as specified in this
19 subsection. For purposes of this Section, "unreimbursed
20 eligible remediation costs" means costs approved by the
21 Illinois Environmental Protection Agency ("Agency") under
22 Section 58.14 of the Environmental Protection Act that were
23 paid in performing environmental remediation at a site for
24 which a No Further Remediation Letter was issued by the
25 Agency and recorded under Section 58.10 of the
26 Environmental Protection Act. The credit must be claimed

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

1 Department of Commerce and Economic Opportunity). The
2 total credit allowed shall not exceed \$40,000 per year with
3 a maximum total of \$150,000 per site. For partners and
4 shareholders of subchapter S corporations, there shall be
5 allowed a credit under this subsection to be determined in
6 accordance with the determination of income and
7 distributive share of income under Sections 702 and 704 and
8 subchapter S of the Internal Revenue Code.

9 (ii) A credit allowed under this subsection that is
10 unused in the year the credit is earned may be carried
11 forward to each of the 5 taxable years following the year
12 for which the credit is first earned until it is used. The
13 term "unused credit" does not include any amounts of
14 unreimbursed eligible remediation costs in excess of the
15 maximum credit per site authorized under paragraph (i).
16 This credit shall be applied first to the earliest year for
17 which there is a liability. If there is a credit under this
18 subsection from more than one tax year that is available to
19 offset a liability, the earliest credit arising under this
20 subsection shall be applied first. A credit allowed under
21 this subsection may be sold to a buyer as part of a sale of
22 all or part of the remediation site for which the credit
23 was granted. The purchaser of a remediation site and the
24 tax credit shall succeed to the unused credit and remaining
25 carry-forward period of the seller. To perfect the
26 transfer, the assignor shall record the transfer in the

1 chain of title for the site and provide written notice to
2 the Director of the Illinois Department of Revenue of the
3 assignor's intent to sell the remediation site and the
4 amount of the tax credit to be transferred as a portion of
5 the sale. In no event may a credit be transferred to any
6 taxpayer if the taxpayer or a related party would not be
7 eligible under the provisions of subsection (i).

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

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

23 For purposes of this subsection:

24 "Qualifying pupils" means individuals who (i) are
25 residents of the State of Illinois, (ii) are under the age of
26 21 at the close of the school year for which a credit is

1 sought, and (iii) during the school year for which a credit is
2 sought were full-time pupils enrolled in a kindergarten through
3 twelfth grade education program at any school, as defined in
4 this subsection.

5 "Qualified education expense" means the amount incurred on
6 behalf of a qualifying pupil in excess of \$250 for tuition,
7 book fees, and lab fees at the school in which the pupil is
8 enrolled during the regular school year.

9 "School" means any public or nonpublic elementary or
10 secondary school in Illinois that is in compliance with Title
11 VI of the Civil Rights Act of 1964 and attendance at which
12 satisfies the requirements of Section 26-1 of the School Code,
13 except that nothing shall be construed to require a child to
14 attend any particular public or nonpublic school to qualify for
15 the credit under this Section.

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

19 (n) River Edge Redevelopment Zone site remediation tax
20 credit.

21 (i) For tax years ending on or after December 31, 2006,
22 a taxpayer shall be allowed a credit against the tax
23 imposed by subsections (a) and (b) of this Section for
24 certain amounts paid for unreimbursed eligible remediation
25 costs, as specified in this subsection. For purposes of
26 this Section, "unreimbursed eligible remediation costs"

1 means costs approved by the Illinois Environmental
2 Protection Agency ("Agency") under Section 58.14a of the
3 Environmental Protection Act that were paid in performing
4 environmental remediation at a site within a River Edge
5 Redevelopment Zone for which a No Further Remediation
6 Letter was issued by the Agency and recorded under Section
7 58.10 of the Environmental Protection Act. The credit must
8 be claimed for the taxable year in which Agency approval of
9 the eligible remediation costs is granted. The credit is
10 not available to any taxpayer if the taxpayer or any
11 related party caused or contributed to, in any material
12 respect, a release of regulated substances on, in, or under
13 the site that was identified and addressed by the remedial
14 action pursuant to the Site Remediation Program of the
15 Environmental Protection Act. Determinations as to credit
16 availability for purposes of this Section shall be made
17 consistent with rules adopted by the Pollution Control
18 Board pursuant to the Illinois Administrative Procedure
19 Act for the administration and enforcement of Section 58.9
20 of the Environmental Protection Act. For purposes of this
21 Section, "taxpayer" includes a person whose tax attributes
22 the taxpayer has succeeded to under Section 381 of the
23 Internal Revenue Code and "related party" includes the
24 persons disallowed a deduction for losses by paragraphs
25 (b), (c), and (f) (1) of Section 267 of the Internal Revenue
26 Code by virtue of being a related taxpayer, as well as any

1 of its partners. The credit allowed against the tax imposed
2 by subsections (a) and (b) shall be equal to 25% of the
3 unreimbursed eligible remediation costs in excess of
4 \$100,000 per site.

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

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

4 (iv) This subsection is exempt from the provisions of
5 Section 250.

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

7 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

8 Sec. 203. Base income defined.

9 (a) Individuals.

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

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

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

24 (B) An amount equal to the amount of tax imposed by
25 this Act to the extent deducted from gross income in

1 the computation of adjusted gross income for the
2 taxable year;

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

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

19 (D-5) An amount, to the extent not included in
20 adjusted gross income, equal to the amount of money
21 withdrawn by the taxpayer in the taxable year from a
22 medical care savings account and the interest earned on
23 the account in the taxable year of a withdrawal
24 pursuant to subsection (b) of Section 20 of the Medical
25 Care Savings Account Act or subsection (b) of Section
26 20 of the Medical Care Savings Account Act of 2000;

1 (D-10) For taxable years ending after December 31,
2 1997, an amount equal to any eligible remediation costs
3 that the individual deducted in computing adjusted
4 gross income and for which the individual claims a
5 credit under subsection (l) of Section 201;

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

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

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

25 The taxpayer is required to make the addition
26 modification under this subparagraph only once with

1 respect to any one piece of property;

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

1 whom the interest was paid, accrued, or incurred.

2 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

13 This paragraph shall not apply to the following:

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

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

26 (a) the person during the same taxable

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

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

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

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

1 under Section 404 of this Act;

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

1 Section 203(a)(2)(D-18) of this Act.

2 (D-20) For taxable years beginning on or after
3 January 1, 2002 and ending on or before December 31,
4 2006, in the case of a distribution from a qualified
5 tuition program under Section 529 of the Internal
6 Revenue Code, other than (i) a distribution from a
7 College Savings Pool created under Section 16.5 of the
8 State Treasurer Act or (ii) a distribution from the
9 Illinois Prepaid Tuition Trust Fund, an amount equal to
10 the amount excluded from gross income under Section
11 529(c)(3)(B). For taxable years beginning on or after
12 January 1, 2007, in the case of a distribution from a
13 qualified tuition program under Section 529 of the
14 Internal Revenue Code, other than (i) a distribution
15 from a College Savings Pool created under Section 16.5
16 of the State Treasurer Act, (ii) a distribution from
17 the Illinois Prepaid Tuition Trust Fund, or (iii) a
18 distribution from a qualified tuition program under
19 Section 529 of the Internal Revenue Code that (I)
20 adopts and determines that its offering materials
21 comply with the College Savings Plans Network's
22 disclosure principles and (II) has made reasonable
23 efforts to inform in-state residents of the existence
24 of in-state qualified tuition programs by informing
25 Illinois residents directly and, where applicable, to
26 inform financial intermediaries distributing the

1 program to inform in-state residents of the existence
2 of in-state qualified tuition programs at least
3 annually, an amount equal to the amount excluded from
4 gross income under Section 529(c) (3) (B) .

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

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

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

26 (E) For taxable years ending before December 31,

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

1 beginning with taxable years ending on or after
2 December 31, 2007, the National Guard of any other
3 state. The provisions of this amendatory Act of the
4 92nd General Assembly are exempt from the provisions of
5 Section 250;

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

17 (G) The valuation limitation amount;

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

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

26 (J) An amount equal to those dividends included in

1 such total which were paid by a corporation which
2 conducts business operations in an Enterprise Zone or
3 zones created under the Illinois Enterprise Zone Act or
4 a River Edge Redevelopment Zone or zones created under
5 the River Edge Redevelopment Zone Act, and conducts
6 substantially all of its operations in an Enterprise
7 Zone or zones or a River Edge Redevelopment Zone or
8 zones. This subparagraph (J) is exempt from the
9 provisions of Section 250;

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

19 (L) For taxable years ending after December 31,
20 1983, an amount equal to all social security benefits
21 and railroad retirement benefits included in such
22 total pursuant to Sections 72(r) and 86 of the Internal
23 Revenue Code;

24 (M) With the exception of any amounts subtracted
25 under subparagraph (N), an amount equal to the sum of
26 all amounts disallowed as deductions by (i) Sections

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

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

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

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

1 restoration of substantial amounts held under claim of
2 right for the taxable year pursuant to Section 1341 of
3 the Internal Revenue Code or of any itemized deduction
4 taken from adjusted gross income in the computation of
5 taxable income for restoration of substantial amounts
6 held under claim of right for the taxable year of 1986;

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

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

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

22 (T) An amount, to the extent included in adjusted
23 gross income, equal to the amount of interest earned in
24 the taxable year on a medical care savings account
25 established under the Medical Care Savings Account Act
26 or the Medical Care Savings Account Act of 2000 on

1 behalf of the taxpayer, other than interest added
2 pursuant to item (D-5) of this paragraph (2);

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

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

1 employer of the taxpayer or the taxpayer's spouse. The
2 amount of the health insurance and long-term care
3 insurance subtracted under this item (V) shall be
4 determined by multiplying total health insurance and
5 long-term care insurance premiums paid by the taxpayer
6 times a number that represents the fractional
7 percentage of eligible medical expenses under Section
8 213 of the Internal Revenue Code of 1986 not actually
9 deducted on the taxpayer's federal income tax return;

10 (W) For taxable years beginning on or after January
11 1, 1998, all amounts included in the taxpayer's federal
12 gross income in the taxable year from amounts converted
13 from a regular IRA to a Roth IRA. This paragraph is
14 exempt from the provisions of Section 250;

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

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

22 (Y) For taxable years beginning on or after January
23 1, 2002 and ending on or before December 31, 2004,
24 moneys contributed in the taxable year to a College
25 Savings Pool account under Section 16.5 of the State
26 Treasurer Act, except that amounts excluded from gross

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

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

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

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

5 (3) for taxable years ending after December
6 31, 2005:

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

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

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

24 (AA) If the taxpayer sells, transfers, abandons,
25 or otherwise disposes of property for which the
26 taxpayer was required in any taxable year to make an

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

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

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

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

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

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

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

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

1 indirectly, to the same person. This subparagraph (DD)
2 is exempt from the provisions of Section 250; ~~and~~

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

24 (FF) For taxable years ending on or after December
25 31, 2008, in the case of a taxpayer who was required to
26 add back any insurance premiums under Section

1 203(a)(2)(D-19), an amount equal to the amount of any
2 reimbursement received from the insurance company for
3 any loss covered by a policy for which those premiums
4 were paid, to the extent of the federal income tax
5 deduction that would have been allowable for the loss
6 in computing adjusted gross income if not for the
7 reimbursement. This subparagraph (FF) is exempt from
8 the provisions of Section 250.

9 (b) Corporations.

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

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

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

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

24 (C) In the case of a regulated investment company,
25 an amount equal to the excess of (i) the net long-term

1 capital gain for the taxable year, over (ii) the amount
2 of the capital gain dividends designated as such in
3 accordance with Section 852(b)(3)(C) of the Internal
4 Revenue Code and any amount designated under Section
5 852(b)(3)(D) of the Internal Revenue Code,
6 attributable to the taxable year (this amendatory Act
7 of 1995 (Public Act 89-89) is declarative of existing
8 law and is not a new enactment);

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

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

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

1 addition modification under this subparagraph (E)
2 which related to that net operating loss and which
3 was taken into account in calculating the base
4 income of an earlier taxable year, and

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

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

17 (E-5) For taxable years ending after December 31,
18 1997, an amount equal to any eligible remediation costs
19 that the corporation deducted in computing adjusted
20 gross income and for which the corporation claims a
21 credit under subsection (l) of Section 201;

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

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

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

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

18 (E-12) An amount equal to the amount otherwise
19 allowed as a deduction in computing base income for
20 interest paid, accrued, or incurred, directly or
21 indirectly, (i) for taxable years ending on or after
22 December 31, 2004, to a foreign person who would be a
23 member of the same unitary business group but for the
24 fact the foreign person's business activity outside
25 the United States is 80% or more of the foreign
26 person's total business activity and (ii) for taxable

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

19 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

1 of apportionment under Section 304(f).

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

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

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

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

4 This paragraph shall not apply to the following:

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

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

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

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

1 or

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

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

19 (E-14) For taxable years ending on or after
20 December 31, 2008, an amount equal to the amount of
21 insurance premium expenses and costs otherwise allowed
22 as a deduction in computing base income, and that were
23 paid, accrued, or incurred, directly or indirectly, to
24 a person who would be a member of the same unitary
25 business group but for the fact that the person is
26 prohibited under Section 1501(a)(27) from being

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

19 (E-15) For taxable years beginning after December
20 31, 2008, any deduction for dividends paid by a captive
21 real estate investment trust that is allowed to a real
22 estate investment trust under Section 857(b)(2)(B) of
23 the Internal Revenue Code for dividends paid;

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

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

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

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

5 (H) In the case of a regulated investment company,
6 an amount equal to the amount of exempt interest
7 dividends as defined in subsection (b) (5) of Section
8 852 of the Internal Revenue Code, paid to shareholders
9 for the taxable year;

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

1 of the Internal Revenue Code (in the case of a life
2 insurance company with gross income from a decrease in
3 reserves for the tax year) or Section 807(b)(1)(B) of
4 the Internal Revenue Code (in the case of a life
5 insurance company allowed a deduction for an increase
6 in reserves for the tax year); the provisions of this
7 subparagraph are exempt from the provisions of Section
8 250;

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

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

1 provisions of Section 250;

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

11 (M) For any taxpayer that is a financial
12 organization within the meaning of Section 304(c) of
13 this Act, an amount included in such total as interest
14 income from a loan or loans made by such taxpayer to a
15 borrower, to the extent that such a loan is secured by
16 property which is eligible for the Enterprise Zone
17 Investment Credit or the River Edge Redevelopment Zone
18 Investment Credit. To determine the portion of a loan
19 or loans that is secured by property eligible for a
20 Section 201(f) investment credit to the borrower, the
21 entire principal amount of the loan or loans between
22 the taxpayer and the borrower should be divided into
23 the basis of the Section 201(f) investment credit
24 property which secures the loan or loans, using for
25 this purpose the original basis of such property on the
26 date that it was placed in service in the Enterprise

1 Zone or the River Edge Redevelopment Zone. The
2 subtraction modification available to taxpayer in any
3 year under this subsection shall be that portion of the
4 total interest paid by the borrower with respect to
5 such loan attributable to the eligible property as
6 calculated under the previous sentence. This
7 subparagraph (M) is exempt from the provisions of
8 Section 250;

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

1 (2) of this subsection shall be eligible for the
2 deduction provided under this subparagraph (M-1). The
3 subtraction modification available to taxpayers in any
4 year under this subsection shall be that portion of the
5 total interest paid by the borrower with respect to
6 such loan attributable to the eligible property as
7 calculated under the previous sentence;

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

19 (O) An amount equal to: (i) 85% for taxable years
20 ending on or before December 31, 1992, or, a percentage
21 equal to the percentage allowable under Section
22 243(a)(1) of the Internal Revenue Code ~~of 1986~~ for
23 taxable years ending after December 31, 1992, of the
24 amount by which dividends included in taxable income
25 and received from a corporation that is not created or
26 organized under the laws of the United States or any

1 state or political subdivision thereof, including, for
2 taxable years ending on or after December 31, 1988,
3 dividends received or deemed received or paid or deemed
4 paid under Sections 951 through 965 ~~964~~ of the Internal
5 Revenue Code, exceed the amount of the modification
6 provided under subparagraph (G) of paragraph (2) of
7 this subsection (b) which is related to such dividends,
8 and including, for taxable years ending on or after
9 December 31, 2008, dividends received from a captive
10 real estate investment trust; plus (ii) 100% of the
11 amount by which dividends, included in taxable income
12 and received, including, for taxable years ending on or
13 after December 31, 1988, dividends received or deemed
14 received or paid or deemed paid under Sections 951
15 through 964 of the Internal Revenue Code and including,
16 for taxable years ending on or after December 31, 2008,
17 dividends received from a captive real estate
18 investment trust, from any such corporation specified
19 in clause (i) that would but for the provisions of
20 Section 1504 (b) (3) of the Internal Revenue Code be
21 treated as a member of the affiliated group which
22 includes the dividend recipient, exceed the amount of
23 the modification provided under subparagraph (G) of
24 paragraph (2) of this subsection (b) which is related
25 to such dividends. This subparagraph (O) is exempt from
26 the provisions of Section 250 of this Act;

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

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

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

22 (S) For taxable years ending on or after December
23 31, 1997, in the case of a Subchapter S corporation, an
24 amount equal to all amounts of income allocable to a
25 shareholder subject to the Personal Property Tax
26 Replacement Income Tax imposed by subsections (c) and

1 (d) of Section 201 of this Act, including amounts
2 allocable to organizations exempt from federal income
3 tax by reason of Section 501(a) of the Internal Revenue
4 Code. This subparagraph (S) is exempt from the
5 provisions of Section 250;

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

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

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

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

25 (i) for property on which a bonus
26 depreciation deduction of 30% of the adjusted

1 basis was taken, "x" equals "y" multiplied by
2 30 and then divided by 70 (or "y" multiplied by
3 0.429); and

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

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

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

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

1 equal to that addition modification.

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

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

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

1 respect to a transaction with a taxpayer that is
2 required to make an addition modification with respect
3 to such transaction under Section 203(a)(2)(D-19),
4 Section 203(b)(2)(E-14), Section 203(c)(2)(G-14), or
5 Section 203(d)(2)(D-9), but not to exceed the amount of
6 that addition modification. This subparagraph (V) is
7 exempt from the provisions of Section 250;

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

1 is exempt from the provisions of Section 250; ~~and~~

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

23 (Y) For taxable years ending on or after December
24 31, 2008, in the case of a taxpayer who was required to
25 add back any insurance premiums under Section
26 203(b)(2)(E-14), an amount equal to the amount of any

1 reimbursement received from the insurance company for
2 any loss covered by a policy for which those premiums
3 were paid, to the extent of the federal income tax
4 deduction that would have been allowable for the loss
5 if not for the reimbursement. This subparagraph (Y) is
6 exempt from the provisions of Section 250.

7 (3) Special rule. For purposes of paragraph (2) (A),
8 "gross income" in the case of a life insurance company, for
9 tax years ending on and after December 31, 1994, and prior
10 to December 31, 2008, shall mean the gross investment
11 income for the taxable year and, for tax years ending on or
12 after December 31, 2008, shall mean all amounts included in
13 life insurance gross income under Section 803(a)(3) of the
14 Internal Revenue Code.

15 (c) Trusts and estates.

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

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

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

1 in the computation of taxable income;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

16 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

18 (I) The valuation limitation amount;

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

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

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

7 (L) With the exception of any amounts subtracted
8 under subparagraph (K), an amount equal to the sum of
9 all amounts disallowed as deductions by (i) Sections
10 171(a) (2) and 265(a) (2) of the Internal Revenue Code,~~7~~
11 ~~as now or hereafter amended~~, and all amounts of
12 expenses allocable to interest and disallowed as
13 deductions by Section 265(1) of the Internal Revenue
14 Code of 1954,~~7~~ ~~as now or hereafter amended~~; and (ii) for
15 taxable years ending on or after August 13, 1999,
16 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
17 the Internal Revenue Code; and (iii) for taxable years
18 ending on or after December 31, 2008, Section 45G(e) (3)
19 of the Internal Revenue Code; the provisions of this
20 subparagraph are exempt from the provisions of Section
21 250;

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

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

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

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

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

23 (Q) For taxable year 1999 and thereafter, an amount
24 equal to the amount of any (i) distributions, to the
25 extent includible in gross income for federal income
26 tax purposes, made to the taxpayer because of his or

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

1 this paragraph in gross income for federal income tax
2 purposes. This paragraph is exempt from the provisions
3 of Section 250;

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

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

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

21 (3) for taxable years ending after December
22 31, 2005:

23 (i) for property on which a bonus
24 depreciation deduction of 30% of the adjusted
25 basis was taken, "x" equals "y" multiplied by
26 30 and then divided by 70 (or "y" multiplied by

1 0.429); and

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

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

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

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

26 The taxpayer is allowed to take the deduction under

1 this subparagraph only once with respect to any one
2 piece of property.

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

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

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

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

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

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

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

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

23 (Y) For taxable years ending on or after December
24 31, 2008, in the case of a taxpayer who was required to
25 add back any insurance premiums under Section
26 203(c)(2)(G-14), an amount equal to the amount of any

1 reimbursement received from the insurance company for
2 any loss covered by a policy for which those premiums
3 were paid, to the extent of the federal income tax
4 deduction that would have been allowable for the loss
5 if not for the reimbursement. This subparagraph (Y) is
6 exempt from the provisions of Section 250.

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

14 (d) Partnerships.

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

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

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

25 (B) An amount equal to the amount of tax imposed by

1 this Act to the extent deducted from gross income for
2 the taxable year;

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

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

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

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

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

1 modification under subparagraph (O), then an amount
2 equal to that subtraction modification.

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

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

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

7 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

25 (D-8) An amount equal to the amount of intangible
26 expenses and costs otherwise allowed as a deduction in

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

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

18 This paragraph shall not apply to the following:

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

26 (ii) any item of intangible expense or cost

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

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

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

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

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

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

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

1 of the same person to whom the premiums and costs were
2 directly or indirectly paid, incurred, or accrued. The
3 preceding sentence does not apply to the extent that
4 the same dividends caused a reduction to the addition
5 modification required under Section 203(d)(2)(D-7) or
6 Section 203(d)(2)(D-8) of this Act.

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

9 (E) The valuation limitation amount;

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

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

23 (H) Any income of the partnership which
24 constitutes personal service income as defined in
25 Section 1348 (b) (1) of the Internal Revenue Code (as
26 in effect December 31, 1981) or a reasonable allowance

1 for compensation paid or accrued for services rendered
2 by partners to the partnership, whichever is greater;

3 (I) An amount equal to all amounts of income
4 distributable to an entity subject to the Personal
5 Property Tax Replacement Income Tax imposed by
6 subsections (c) and (d) of Section 201 of this Act
7 including amounts distributable to organizations
8 exempt from federal income tax by reason of Section
9 501(a) of the Internal Revenue Code;

10 (J) With the exception of any amounts subtracted
11 under subparagraph (G), an amount equal to the sum of
12 all amounts disallowed as deductions by (i) Sections
13 171(a) (2), and 265(2) of the Internal Revenue Code ~~of~~
14 ~~1954, as now or hereafter amended,~~ and all amounts of
15 expenses allocable to interest and disallowed as
16 deductions by Section 265(1) of the Internal Revenue
17 Code, ~~as now or hereafter amended;~~ and (ii) for taxable
18 years ending on or after August 13, 1999, Sections
19 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
20 Internal Revenue Code; and (iii) for taxable years
21 ending on or after December 31, 2008, Section 45G(e) (3)
22 of the Internal Revenue Code; the provisions of this
23 subparagraph are exempt from the provisions of Section
24 250;

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

1 conducts business operations in an Enterprise Zone or
2 zones created under the Illinois Enterprise Zone Act,
3 enacted by the 82nd General Assembly, or a River Edge
4 Redevelopment Zone or zones created under the River
5 Edge Redevelopment Zone Act and conducts substantially
6 all of its operations in an Enterprise Zone or Zones or
7 from a River Edge Redevelopment Zone or zones. This
8 subparagraph (K) is exempt from the provisions of
9 Section 250;

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

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

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

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

7 (1) "y" equals the amount of the depreciation
8 deduction taken for the taxable year on the
9 taxpayer's federal income tax return on property
10 for which the bonus depreciation deduction was
11 taken in any year under subsection (k) of Section
12 168 of the Internal Revenue Code, but not including
13 the bonus depreciation deduction;

14 (2) for taxable years ending on or before
15 December 31, 2005, "x" equals "y" multiplied by 30
16 and then divided by 70 (or "y" multiplied by
17 0.429); and

18 (3) for taxable years ending after December
19 31, 2005:

20 (i) for property on which a bonus
21 depreciation deduction of 30% of the adjusted
22 basis was taken, "x" equals "y" multiplied by
23 30 and then divided by 70 (or "y" multiplied by
24 0.429); and

25 (ii) for property on which a bonus
26 depreciation deduction of 50% of the adjusted

1 provisions of Section 250;

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

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

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

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

1 subsections of Section 304, but not to exceed the
2 addition modification required to be made for the same
3 taxable year under Section 203(d)(2)(D-8) for
4 intangible expenses and costs paid, accrued, or
5 incurred, directly or indirectly, to the same person.
6 This subparagraph (S) is exempt from Section 250; and

7 (T) For taxable years ending on or after December
8 31, 2008, in the case of a taxpayer who was required to
9 add back any insurance premiums under Section
10 203(d)(2)(D-9), an amount equal to the amount of any
11 reimbursement received from the insurance company for
12 any loss covered by a policy for which those premiums
13 were paid, to the extent of the federal income tax
14 deduction that would have been allowable for the loss
15 if not for the reimbursement. This subparagraph (T) is
16 exempt from the provisions of Section 250.

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

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

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

25 (2) Special rule. For purposes of paragraph (1) of this
26 subsection, the taxable income properly reportable for

1 federal income tax purposes shall mean:

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

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

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

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

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

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

7 (F) Cooperatives. In the case of a cooperative
8 corporation or association, the taxable income of such
9 organization determined in accordance with the
10 provisions of Section 1381 through 1388 of the Internal
11 Revenue Code;

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

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

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

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

26 (f) Valuation limitation amount.

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

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

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

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

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

1 respect of the sale, exchange or other disposition of
2 such property.

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

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

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

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

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

5 (Source: P.A. 94-776, eff. 5-19-06; 94-789, eff. 5-19-06;
6 94-1021, eff. 7-12-06; 94-1074, eff. 12-26-06; 95-23, eff.
7 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331,
8 eff. 8-21-07; 95-707, eff. 1-11-08.)

9 (35 ILCS 5/204) (from Ch. 120, par. 2-204)

10 Sec. 204. Standard Exemption.

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

18 (b) Basic amount. For the purpose of subsection (a) of this
19 Section, except as provided by subsection (a) of Section 205
20 and in this subsection, each taxpayer shall be allowed a basic
21 amount of \$1000, except that for corporations the basic amount
22 shall be zero for tax years ending on or after December 31,
23 2003, and for individuals the basic amount shall be:

24 (1) for taxable years ending on or after December 31,
25 1998 and prior to December 31, 1999, \$1,300;

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

3 (3) for taxable years ending on or after December 31,
4 2000, \$2,000.

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

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

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

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

23 (A) For taxpayer. An additional exemption of
24 \$1,000 for the taxpayer if he or she has attained the
25 age of 65 before the end of the taxable year.

26 (B) For spouse when a joint return is not filed. An

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

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

10 (A) For taxpayer. An additional exemption of
11 \$1,000 for the taxpayer if he or she is blind at the
12 end of the taxable year.

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

25 (C) Blindness defined. For purposes of this
26 subsection, an individual is blind only if his or her

1 central visual acuity does not exceed 20/200 in the
2 better eye with correcting lenses, or if his or her
3 visual acuity is greater than 20/200 but is accompanied
4 by a limitation in the fields of vision such that the
5 widest diameter of the visual fields subtends an angle
6 no greater than 20 degrees.

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

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

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

12 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

13 Sec. 205. Exempt organizations.

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

23 (b) Partnerships. A partnership as such shall not be
24 subject to the tax imposed by subsection 201 (a) and (b) of
25 this Act, but shall be subject to the replacement tax imposed

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

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

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

1 Act for such taxable year.

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

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

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

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

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

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

25 (35 ILCS 5/214)

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

2 (a) Beginning with taxable years ending on or after
3 December 31, 2001 and until the taxable year ending on December
4 31, 2011, a taxpayer who makes a donation under Section 7.28 of
5 the Illinois Housing Development Act is entitled to a credit
6 against the tax imposed by subsections (a) and (b) of Section
7 201 in an amount equal to 50% of the value of the donation.
8 Partners, shareholders of subchapter S corporations, and
9 owners of limited liability companies (if the limited liability
10 company is treated as a partnership for purposes of federal and
11 State income taxation) are entitled to a credit under this
12 Section to be determined in accordance with the determination
13 of income and distributive share of income under Sections 702
14 and 703 and subchapter S of the Internal Revenue Code. Persons
15 or entities not subject to the tax imposed by subsections (a)
16 and (b) of Section 201 and who make a donation under Section
17 7.28 of the Illinois Housing Development Act are entitled to a
18 credit as described in this subsection and may transfer that
19 credit as described in subsection (c).

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

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

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

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

15 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

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

12 (1) Property factor.

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

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

26 (C) The average value of property shall be determined

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

6 (2) Payroll factor.

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

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

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

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

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

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

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

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

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

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

25 (2) The term "member of a professional
26 athletic team" includes those employees who are

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

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

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

1 rehabilitation activities, when such
2 activities are conducted at team facilities.

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

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

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

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

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

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

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

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

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

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

1 bonus is nonrefundable.

2 (3) Sales factor.

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

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

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

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

1 business activity outside of the United States and the
2 property is purchased for resale.

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

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

11 (ii) Place of utilization.

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

26 (II) A copyright is utilized in a state to the

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

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

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

22 (B-2) Gross receipts from the license, sale, or other
23 disposition of patents, copyrights, trademarks, and
24 similar items of intangible personal property may be
25 included in the numerator or denominator of the sales
26 factor only if gross receipts from licenses, sales, or

1 other disposition of such items comprise more than 50% of
2 the taxpayer's total gross receipts included in gross
3 income during the tax year and during each of the 2
4 immediately preceding tax years; provided that, when a
5 taxpayer is a member of a unitary business group, such
6 determination shall be made on the basis of the gross
7 receipts of the entire unitary business group.

8 (B-5) For taxable years ending on or after December 31,
9 2008, except as provided in subsections (ii) through (vii),
10 receipts from the sale of telecommunications service or
11 mobile telecommunications service are in this State if the
12 customer's service address is in this State.

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

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

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

26 "Call-by-call Basis" means any method of charging

1 for telecommunications services where the price is
2 measured by individual calls.

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

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

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

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

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

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

1 "Mobile telecommunications service" means
2 commercial mobile radio service, as defined in Section
3 20.3 of Title 47 of the Code of Federal Regulations as
4 in effect on June 1, 1999.

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

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

25 "Prepaid telecommunication service" means the
26 right to access exclusively telecommunications

1 services, which must be paid for in advance and which
2 enables the origination of calls using an access number
3 or authorization code, whether manually or
4 electronically dialed, and that is sold in
5 predetermined units or dollars of which the number
6 declines with use in a known amount.

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

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

24 "Service address" means:

25 (a) The location of the telecommunications
26 equipment to which a customer's call is charged and

1 from which the call originates or terminates,
2 regardless of where the call is billed or paid;

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

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

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

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

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

9 (c) Tangible personal property;

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

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

14 (f) Internet access service;

15 (g) Radio and television audio and video
16 programming services, regardless of the medium,
17 including the furnishing of transmission,
18 conveyance and routing of such services by the
19 programming service provider. Radio and television
20 audio and video programming services shall include
21 but not be limited to cable service as defined in
22 47 USC 522(6) and audio and video programming
23 services delivered by commercial mobile radio
24 service providers, as defined in 47 CFR 20.3;

25 (h) "Ancillary services"; or

26 (i) Digital products "delivered

1 electronically", including but not limited to
2 software, music, video, reading materials or ring
3 tones.

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

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

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

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

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

24 (iii) Receipts from the sale of postpaid
25 telecommunications service at retail are in this State
26 if the origination point of the telecommunication

1 signal, as first identified by the service provider's
2 telecommunication system or as identified by
3 information received by the seller from its service
4 provider if the system used to transport
5 telecommunication signals is not the seller's, is
6 located in this State.

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

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

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

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

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

1 outside of this State, which segments are
2 separately charged.

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

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

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

24 (a) 100% of the receipts from access fees
25 attributable to intrastate telecommunications
26 service that both originates and terminates in

1 this State.

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

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

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

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

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

3 (ii) The income-producing activity is performed
4 both within and without this State and a greater
5 proportion of the income-producing activity is
6 performed within this State than without this State,
7 based on performance costs.

8 (C-5) For taxable years ending on or after December 31,
9 2008, sales, other than sales governed by paragraphs (B),
10 (B-1), (B-2), and (B-5), are in this State if any of the
11 following criteria are met:

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

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

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

1 if:

2 (a) in the case of a taxpayer who is a dealer
3 in the item of intangible personal property within
4 the meaning of Section 475 of the Internal Revenue
5 Code, the income or gain is received from a
6 customer in this State. For purposes of this
7 subparagraph, a customer is in this State if the
8 customer is an individual, trust or estate who is a
9 resident of this State and, for all other
10 customers, if the customer's commercial domicile
11 is in this State. Unless the dealer has actual
12 knowledge of the residence or commercial domicile
13 of a customer during a taxable year, the customer
14 shall be deemed to be a customer in this State if
15 the billing address of the customer, as shown in
16 the records of the dealer, is in this State; or

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

26 (iv) Sales of services are in this State if the

1 services are received in this State. For the purposes
2 of this section, gross receipts from the performance of
3 services provided to a corporation, partnership, or
4 trust may only be attributed to a state where that
5 corporation, partnership, or trust has a fixed place of
6 business. If the state where the services are received
7 is not readily determinable or is a state where the
8 corporation, partnership, or trust receiving the
9 service does not have a fixed place of business, the
10 services shall be deemed to be received at the location
11 of the office of the customer from which the services
12 were ordered in the regular course of the customer's
13 trade or business. If the ordering office cannot be
14 determined, the services shall be deemed to be received
15 at the office of the customer to which the services are
16 billed. If the taxpayer is not taxable in the state in
17 which the services are received, the sale must be
18 excluded from both the numerator and the denominator of
19 the sales factor. The Department shall adopt rules
20 prescribing where specific types of service are
21 received, including, but not limited to, broadcast,
22 cable, advertising, publishing, and utility service.

23 (D) For taxable years ending on or after December 31,
24 1995, the following items of income shall not be included
25 in the numerator or denominator of the sales factor:
26 dividends; amounts included under Section 78 of the

1 Internal Revenue Code; and Subpart F income as defined in
2 Section 952 of the Internal Revenue Code. No inference
3 shall be drawn from the enactment of this paragraph (D) in
4 construing this Section for taxable years ending before
5 December 31, 1995.

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

23 (b) Insurance companies.

24 (1) In general. Except as otherwise provided by
25 paragraph (2), business income of an insurance company for
26 a taxable year shall be apportioned to this State by

1 multiplying such income by a fraction, the numerator of
2 which is the direct premiums written for insurance upon
3 property or risk in this State, and the denominator of
4 which is the direct premiums written for insurance upon
5 property or risk everywhere. For purposes of this
6 subsection, the term "direct premiums written" means the
7 total amount of direct premiums written, assessments and
8 annuity considerations as reported for the taxable year on
9 the annual statement filed by the company with the Illinois
10 Director of Insurance in the form approved by the National
11 Convention of Insurance Commissioners or such other form as
12 may be prescribed in lieu thereof.

13 (2) Reinsurance. If the principal source of premiums
14 written by an insurance company consists of premiums for
15 reinsurance accepted by it, the business income of such
16 company shall be apportioned to this State by multiplying
17 such income by a fraction, the numerator of which is the
18 sum of (i) direct premiums written for insurance upon
19 property or risk in this State, plus (ii) premiums written
20 for reinsurance accepted in respect of property or risk in
21 this State, and the denominator of which is the sum of
22 (iii) direct premiums written for insurance upon property
23 or risk everywhere, plus (iv) premiums written for
24 reinsurance accepted in respect of property or risk
25 everywhere. For taxable years ending before December 31,
26 2008, for purposes of this paragraph, premiums written for

1 reinsurance accepted in respect of property or risk in this
2 State, whether or not otherwise determinable, may, at the
3 election of the company, be determined on the basis of the
4 proportion which premiums written for reinsurance accepted
5 from companies commercially domiciled in Illinois bears to
6 premiums written for reinsurance accepted from all
7 sources, or, alternatively, in the proportion which the sum
8 of the direct premiums written for insurance upon property
9 or risk in this State by each ceding company from which
10 reinsurance is accepted bears to the sum of the total
11 direct premiums written by each such ceding company for the
12 taxable year.

13 (c) Financial organizations.

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

26 (A) Fees, commissions or other compensation for

1 financial services rendered within this State;

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

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

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

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

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

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

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

5 (i) The numerator shall be:

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

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

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

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

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

1 amendment or change alters the information used in
2 determining the floor amount.

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

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

26 (ii) Interest income, commissions, fees, gains on

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

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

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

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

1 to a customer in this State.

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

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

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

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

1 activities described in subparagraphs (A) and (B)
2 of this paragraph, the receipts factor shall
3 include the amounts described in such
4 subparagraphs.

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

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

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

26 (A) The amount of interest, dividends, net

1 gains (but not less than zero), and other
2 income from investment assets and activities
3 in the investment account to be attributed to
4 this State and included in the numerator is
5 determined by multiplying all such income from
6 such assets and activities by a fraction, the
7 numerator of which is the gross income from
8 such assets and activities which are properly
9 assigned to a fixed place of business of the
10 taxpayer within this State and the denominator
11 of which is the gross income from all such
12 assets and activities.

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

1 all such funds and such securities.

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

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

1 presumed to have been properly assigned if:

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

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

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

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

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

21 (4) (Blank).

22 (5) (Blank).

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

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

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

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

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

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

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

1 average of the passenger miles fraction and the freight
2 miles fraction shall be weighted to reflect the taxpayer's:

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

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

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

25 (e) Combined apportionment. Where 2 or more persons are
26 engaged in a unitary business as described in subsection

1 (a) (27) of Section 1501, a part of which is conducted in this
2 State by one or more members of the group, the business income
3 attributable to this State by any such member or members shall
4 be apportioned by means of the combined apportionment method.

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

12 (1) Separate accounting;

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

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

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

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

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

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

1 factor plus 16 2/3% of the payroll factor plus 66 2/3% of
2 the sales factor;

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

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

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

16 (Source: P.A. 94-247, eff. 1-1-06; 95-233, eff. 8-16-07;
17 95-707, eff. 1-11-08.)

18 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

19 Sec. 502. Returns and notices.

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

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

24 (2) in the case of a resident or in the case of a
25 corporation which is qualified to do business in this

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

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

17 (b) Fiduciaries and receivers.

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

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

1 property of such individual.

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

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

15 (c) Joint returns by husband and wife.

16 (1) Except as provided in paragraph (3), if a husband
17 and wife file a joint federal income tax return for a
18 taxable year they shall file a joint return under this Act
19 for such taxable year and their liabilities shall be joint
20 and several, but if the federal income tax liability of
21 either spouse is determined on a separate federal income
22 tax return, they shall file separate returns under this
23 Act.

24 (2) If neither spouse is required to file a federal
25 income tax return and either or both are required to file a
26 return under this Act, they may elect to file separate or

1 joint returns and pursuant to such election their
2 liabilities shall be separate or joint and several.

3 (3) If either husband or wife is a resident and the
4 other is a nonresident, they shall file separate returns in
5 this State on such forms as may be required by the
6 Department in which event their tax liabilities shall be
7 separate; but they may elect to determine their joint net
8 income and file a joint return as if both were residents
9 and in such case, their liabilities shall be joint and
10 several.

11 (4) Innocent spouses.

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

26 (B) For tax liabilities arising on and after August

1 13, 1999 or which arose prior to that date, but remain
2 unpaid as of that date, if an individual who filed a
3 joint return for any taxable year has made an election
4 under this paragraph, the individual's liability for
5 any tax shown on the joint return shall not exceed the
6 individual's separate return amount and the
7 individual's liability for any deficiency assessed for
8 that taxable year shall not exceed the portion of the
9 deficiency properly allocable to the individual. For
10 purposes of this paragraph:

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

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

1 liability for any portion of a deficiency
2 attributable to an error on the return of which the
3 individual had actual knowledge as of the date of
4 filing.

5 (iii) In determining the separate return
6 amount or portion of any deficiency attributable
7 to an individual, the Department shall follow the
8 provisions in subsections (c) and (d) of Section
9 6015 of the Internal Revenue Code.

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

1 determination by the Secretary of the Treasury or
2 the federal courts, in any proceeding involving
3 this subsection, the individual making the
4 election shall have the burden of proof with
5 respect to any item except that the Department
6 shall have the burden of proof with respect to
7 items in subdivision (ii).

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

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

1 allocated to him or her and shall be granted a
2 hearing within the Department under the provisions
3 of Section 908. If a protest is filed, the
4 Department shall take no collection action against
5 the electing individual until the decision
6 regarding the protest has become final under
7 subsection (d) of Section 908 or, if
8 administrative review of the Department's decision
9 is requested under Section 1201, until the
10 decision of the court becomes final.

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

22 (e) For taxable years ending on or after December 31, 1985,
23 and before December 31, 1993, taxpayers that are corporations
24 (other than Subchapter S corporations) having the same taxable
25 year and that are members of the same unitary business group
26 may elect to be treated as one taxpayer for purposes of any

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

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

21 (f) The Department may promulgate regulations to permit
22 nonresident individual partners of the same partnership,
23 nonresident Subchapter S corporation shareholders of the same
24 Subchapter S corporation, and nonresident individuals
25 transacting an insurance business in Illinois under a Lloyds
26 plan of operation, and nonresident individual members of the

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

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

1 Article 3 of this Act and computing net income under Section
2 202 of this Act, be excluded from any other income and
3 apportionment factors of that person or of any unitary business
4 group, as defined in subdivision (a)(27) of Section 1501, to
5 which that person may belong.

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

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

26 (g) The Department may adopt rules to authorize the

1 electronic filing of any return required to be filed under this
2 Section.

3 (Source: P.A. 94-1074, eff. 12-26-06; 95-233, eff. 8-16-07.)

4 (35 ILCS 5/506) (from Ch. 120, par. 5-506)

5 Sec. 506. Federal Returns.

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

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

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

1 any credit provided by Article 2 of this Act for any year
2 under this Act, or in the number of personal exemptions
3 allowable to such person under Section 151 of the Internal
4 Revenue Code, or

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

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

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

25 (35 ILCS 5/601) (from Ch. 120, par. 6-601)

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

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

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

23 (1) Withheld tax. Any amount withheld during any
24 calendar year pursuant to Article 7 from compensation paid
25 to a taxpayer shall be deemed to have been paid on account
26 of any tax imposed by subsections 201(a) and (b) of this

1 Act on such taxpayer for his taxable year beginning in such
2 calendar year. If more than one taxable year begins in a
3 calendar year, such amount shall be deemed to have been
4 paid on account of such tax for the last taxable year so
5 beginning.

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

10 (3) Foreign tax. The aggregate amount of tax which is
11 imposed upon or measured by income and which is paid by a
12 resident for a taxable year to another state or states on
13 income which is also subject to the tax imposed by
14 subsections 201(a) and (b) of this Act shall be credited
15 against the tax imposed by subsections 201(a) and (b)
16 otherwise due under this Act for such taxable year. The
17 aggregate credit provided under this paragraph shall not
18 exceed that amount which bears the same ratio to the tax
19 imposed by subsections 201(a) and (b) otherwise due under
20 this Act as the amount of the taxpayer's base income
21 subject to tax both by such other state or states and by
22 this State bears to his total base income subject to tax by
23 this State for the taxable year. The credit provided by
24 this paragraph shall not be allowed if any creditable tax
25 was deducted in determining base income for the taxable
26 year. Any person claiming such credit shall attach a

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

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

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

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

25 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

1 Sec. 701. Requirement and Amount of Withholding.

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

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

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

17 (b) Payment to Residents. Any payment (including
18 compensation) to a resident by a payor maintaining an office or
19 transacting business within this State (including any agency,
20 officer, or employee of this State or of any political
21 subdivision of this State) and on which withholding of tax is
22 required under the provisions of the Internal Revenue Code
23 shall be deemed to be compensation paid in this State by an
24 employer to an employee for the purposes of Article 7 and
25 Section 601(b)(1) to the extent such payment is included in the
26 recipient's base income and not subjected to withholding by

1 another state. Notwithstanding any other provision to the
2 contrary, no amount shall be withheld from unemployment
3 insurance benefit payments made to an individual pursuant to
4 the Unemployment Insurance Act unless the individual has
5 voluntarily elected the withholding pursuant to rules
6 promulgated by the Director of Employment Security.

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

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

24 (e) Notwithstanding subsection (a)(2) of this Section, no
25 withholding is required on payments for which withholding is
26 required under Section 3405 or 3406 of the Internal Revenue

1 Code ~~of 1954~~.

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

3 (35 ILCS 5/702) (from Ch. 120, par. 7-702)

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

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

24 (35 ILCS 5/703) (from Ch. 120, par. 7-703)

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

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

20 (35 ILCS 5/704A)

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (3) Designate one or more depositories to which payment

1 of taxes required to be withheld under this Article 7 must
2 be paid by some or all employers.

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

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

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

25 (g) Interest on late payment. No interest shall accrue on
26 any underpayment to an amount due under this Section prior to

1 the due date (without regard for extensions) of the return on
2 which the underpaid amount was reported or required to be
3 reported.

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

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

6 Sec. 804. Failure to Pay Estimated Tax.

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

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

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

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

20 (c) Amount of Required Installments.

21 (1) Amount.

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

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

25 (B) Required Annual Payment. For purposes of

1 subparagraph (A), the term "required annual payment"
2 means the lesser of

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

6 (ii) 100% of the tax shown on the return of the
7 taxpayer for the preceding taxable year if a return
8 showing a liability for tax was filed by the
9 taxpayer for the preceding taxable year and such
10 preceding year was a taxable year of 12 months.

11 (2) Lower Required Installment where Annualized Income
12 Installment is Less Than Amount Determined Under Paragraph
13 (1).

14 (A) In General. In the case of any required
15 installment if a taxpayer establishes that the
16 annualized income installment is less than the amount
17 determined under paragraph (1),

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

20 (ii) any reduction in a required installment
21 resulting from the application of this
22 subparagraph shall be recaptured by increasing the
23 amount of the next required installment determined
24 under paragraph (1) by the amount of such
25 reduction, and by increasing subsequent required
26 installments to the extent that the reduction has

1 not previously been recaptured under this clause.

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

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

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

13 (C) Applicable Percentage.

14 In the case of the following The applicable
15 required installments: percentage is:

16	1st.....	22.5%
17	2nd.....	45%
18	3rd.....	67.5%
19	4th.....	90%

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

23 (i) multiplying by 12, or in the case of a
24 taxable year of less than 12 months, by the number
25 of months in the taxable year, the net income
26 computed without regard to the standard exemption

1 for the months in the taxable year ending before
2 the month in which the installment is required to
3 be paid;

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

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

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

15 (i) for the first 3 months of the taxable year,
16 in the case of the installment required to be paid
17 in the 4th month,

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

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

25 (iv) for the first 9 months or for the first 11
26 months of the taxable year, in the case of the

1 installment required to be paid in the 12th month
2 of the taxable year,
3 then dividing the resulting amount by the number of
4 months in the taxable year (3, 5, 6, 8, 9, or 11 as the
5 case may be).

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

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

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

1 tax under Sections 601(b) (3) and (4).

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

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

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

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

24 (g-5) Amounts withheld under the State Salary and Annuity
25 Withholding Act. An individual who has amounts withheld under
26 paragraph (10) of Section 4 of the State Salary and Annuity

1 Withholding Act may elect to have those amounts treated as
2 payments of estimated tax made on the dates on which those
3 amounts are actually withheld.

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

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

9 (Source: P.A. 95-233, eff. 8-16-07.)

10 (35 ILCS 5/909) (from Ch. 120, par. 9-909)

11 Sec. 909. Credits and Refunds.

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

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

25 (c) Interest on overpayment. Interest shall be allowed and

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

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

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

24 (f) Effect of denial. A denial of a claim for refund
25 becomes final 60 days after the date of issuance of the notice
26 of such denial except for such amounts denied as to which the

1 claimant has filed a protest with the Department, as provided
2 by Section 910.

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

16 (h) This amendatory Act of 1983 applies to returns and
17 claims for refunds filed with the Department on and after July
18 1, 1983.

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

20 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

21 Sec. 911. Limitations on Claims for Refund.

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

23 (1) A claim for refund shall be filed not later than 3
24 years after the date the return was filed (in the case of
25 returns required under Article 7 of this Act respecting any

1 amounts withheld as tax, not later than 3 years after the
2 15th day of the 4th month following the close of the
3 calendar year in which such withholding was made), or one
4 year after the date the tax was paid, whichever is the
5 later; and

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

9 (b) Federal changes.

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

21 (2) Tentative carryback adjustments paid before
22 January 1, 1974. If, as the result of the payment before
23 January 1, 1974 of a federal tentative carryback
24 adjustment, a notification of an alteration is required
25 under Section 506(b), a claim for refund may be filed at
26 any time before January 1, 1976, but the amount recoverable

1 pursuant to a claim filed under this Section shall be
2 limited to the amount of any overpayment resulting under
3 this Act from recomputation of the taxpayer's base income
4 for the taxable year after giving effect to the federal
5 alteration resulting from the tentative carryback
6 adjustment irrespective of any limitation imposed in
7 paragraph (1) of this subsection.

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

1 liability under this Act.

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

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

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

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

19 (f) No claim for refund or credit based on the taxpayer's
20 taking a credit for estimated tax payments as provided by
21 Section 601(b)(2) or for any amount paid by a taxpayer pursuant
22 to Section 602(a) or for any amount of credit for tax withheld
23 pursuant to Article 7 may be filed unless a return was filed
24 for the tax year not more than 3 years after the due date, as
25 provided by Section 505, of the return which was required to be
26 filed relative to the taxable year for which the payments were

1 made or for which the tax was withheld. The changes in this
2 subsection (f) made by this amendatory Act of 1987 shall apply
3 to all taxable years ending on or after December 31, 1969.

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

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

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

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

1 Sec. 1002. Failure to Pay Tax.

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

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

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

21 (d) Willful failure to collect and pay over tax. Any person
22 required to collect, truthfully account for, and pay over the
23 tax imposed by this Act who willfully fails to collect such tax
24 or truthfully account for and pay over such tax or willfully
25 attempts in any manner to evade or defeat the tax or the
26 payment thereof, shall, in addition to other penalties provided

1 by law, be liable for the penalty imposed by Section 3-7 of the
2 Uniform Penalty and Interest Act.

3 (e) Penalties assessable.

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

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

16 (3) Procedure for assessing the penalty for failure to
17 file withholding returns or annual transmittal forms for
18 wage and tax statements. The penalty imposed by Section
19 1004 will be asserted by the Department's issuance of a
20 notice of deficiency. If taxpayer files a timely protest,
21 the procedures of Section 908 will be followed. If taxpayer
22 does not file a timely protest, the notice of deficiency
23 will constitute an assessment pursuant to subsection (c) of
24 Section 904.

25 (4) Assessment of penalty under Section 1005(a) ~~1005~~
26 ~~(b)~~. The penalty imposed under Section 1005(a) ~~1005(b)~~

1 shall be deemed assessed upon the assessment of the tax to
2 which such penalty relates and shall be collected and paid
3 on notice and demand in the same manner as the tax.

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

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

12 (35 ILCS 5/1101) (from Ch. 120, par. 11-1101)

13 Sec. 1101. Lien for Tax.

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

21 (b) Unless another date is specifically fixed by law, the
22 lien imposed by subsection (a) of this Section shall arise at
23 the time the assessment is made and shall continue until the
24 liability for the amount so assessed (or a judgment against the
25 taxpayer arising out of such liability) is satisfied or becomes

1 unenforceable by reason of lapse of time.

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

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

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

1 (35 ILCS 5/1405.4)

2 Sec. 1405.4. Tax refund inquiries; response. The
3 Department of Revenue shall establish procedures to inform
4 taxpayers of the status of their refunds and shall provide a
5 response to ~~respond in writing to~~ each inquiry concerning
6 refunds under this Act within 10 days after receiving the
7 inquiry. ~~The response shall include the date the inquiry was~~
8 ~~received, the file number assigned to the inquiry, and the name~~
9 ~~and telephone number of a person within the Department of~~
10 ~~Revenue whom the taxpayer may contact with further inquiries.~~

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

12 Section 25. The Motor Fuel Tax Law is amended by changing
13 Section 1.22 as follows:

14 (35 ILCS 505/1.22)

15 Sec. 1.22. "Jurisdiction" means a state of the United
16 States, the District of Columbia, a state of the United Mexican
17 States, or a province or Territory of Canada.

18 (Source: P.A. 88-480.)

19 Section 30. The Uniform Penalty and Interest Act is amended
20 by changing Section 3-3 as follows:

21 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

22 Sec. 3-3. Penalty for failure to file or pay.

1 (a) This subsection (a) is applicable before January 1,
2 1996. A penalty of 5% of the tax required to be shown due on a
3 return shall be imposed for failure to file the tax return on
4 or before the due date prescribed for filing determined with
5 regard for any extension of time for filing (penalty for late
6 filing or nonfiling). If any unprocessable return is corrected
7 and filed within 21 days after notice by the Department, the
8 late filing or nonfiling penalty shall not apply. If a penalty
9 for late filing or nonfiling is imposed in addition to a
10 penalty for late payment, the total penalty due shall be the
11 sum of the late filing penalty and the applicable late payment
12 penalty. Beginning on the effective date of this amendatory Act
13 of 1995, in the case of any type of tax return required to be
14 filed more frequently than annually, when the failure to file
15 the tax return on or before the date prescribed for filing
16 (including any extensions) is shown to be nonfraudulent and has
17 not occurred in the 2 years immediately preceding the failure
18 to file on the prescribed due date, the penalty imposed by
19 Section 3-3(a) shall be abated.

20 (a-5) This subsection (a-5) is applicable to returns due on
21 and after January 1, 1996 and on or before December 31, 2000. A
22 penalty equal to 2% of the tax required to be shown due on a
23 return, up to a maximum amount of \$250, determined without
24 regard to any part of the tax that is paid on time or by any
25 credit that was properly allowable on the date the return was
26 required to be filed, shall be imposed for failure to file the

1 tax return on or before the due date prescribed for filing
2 determined with regard for any extension of time for filing.
3 However, if any return is not filed within 30 days after notice
4 of nonfiling mailed by the Department to the last known address
5 of the taxpayer contained in Department records, an additional
6 penalty amount shall be imposed equal to the greater of \$250 or
7 2% of the tax shown on the return. However, the additional
8 penalty amount may not exceed \$5,000 and is determined without
9 regard to any part of the tax that is paid on time or by any
10 credit that was properly allowable on the date the return was
11 required to be filed (penalty for late filing or nonfiling). If
12 any unprocessable return is corrected and filed within 30 days
13 after notice by the Department, the late filing or nonfiling
14 penalty shall not apply. If a penalty for late filing or
15 nonfiling is imposed in addition to a penalty for late payment,
16 the total penalty due shall be the sum of the late filing
17 penalty and the applicable late payment penalty. In the case of
18 any type of tax return required to be filed more frequently
19 than annually, when the failure to file the tax return on or
20 before the date prescribed for filing (including any
21 extensions) is shown to be nonfraudulent and has not occurred
22 in the 2 years immediately preceding the failure to file on the
23 prescribed due date, the penalty imposed by Section 3-3(a-5)
24 shall be abated.

25 (a-10) This subsection (a-10) is applicable to returns due
26 on and after January 1, 2001. A penalty equal to 2% of the tax

1 required to be shown due on a return, up to a maximum amount of
2 \$250, reduced by any tax that is paid on time or by any credit
3 that was properly allowable on the date the return was required
4 to be filed, shall be imposed for failure to file the tax
5 return on or before the due date prescribed for filing
6 determined with regard for any extension of time for filing.
7 However, if any return is not filed within 30 days after notice
8 of nonfiling mailed by the Department to the last known address
9 of the taxpayer contained in Department records, an additional
10 penalty amount shall be imposed equal to the greater of \$250 or
11 2% of the tax shown on the return. However, the additional
12 penalty amount may not exceed \$5,000 and is determined without
13 regard to any part of the tax that is paid on time or by any
14 credit that was properly allowable on the date the return was
15 required to be filed (penalty for late filing or nonfiling). If
16 any unprocessable return is corrected and filed within 30 days
17 after notice by the Department, the late filing or nonfiling
18 penalty shall not apply. If a penalty for late filing or
19 nonfiling is imposed in addition to a penalty for late payment,
20 the total penalty due shall be the sum of the late filing
21 penalty and the applicable late payment penalty. In the case of
22 any type of tax return required to be filed more frequently
23 than annually, when the failure to file the tax return on or
24 before the date prescribed for filing (including any
25 extensions) is shown to be nonfraudulent and has not occurred
26 in the 2 years immediately preceding the failure to file on the

1 prescribed due date, the penalty imposed by Section 3-3(a-10)
2 shall be abated.

3 (b) This subsection is applicable before January 1, 1998. A
4 penalty of 15% of the tax shown on the return or the tax
5 required to be shown due on the return shall be imposed for
6 failure to pay:

7 (1) the tax shown due on the return on or before the
8 due date prescribed for payment of that tax, an amount of
9 underpayment of estimated tax, or an amount that is
10 reported in an amended return other than an amended return
11 timely filed as required by subsection (b) of Section 506
12 of the Illinois Income Tax Act (penalty for late payment or
13 nonpayment of admitted liability); or

14 (2) the full amount of any tax required to be shown due
15 on a return and which is not shown (penalty for late
16 payment or nonpayment of additional liability), within 30
17 days after a notice of arithmetic error, notice and demand,
18 or a final assessment is issued by the Department. In the
19 case of a final assessment arising following a protest and
20 hearing, the 30-day period shall not begin until all
21 proceedings in court for review of the final assessment
22 have terminated or the period for obtaining a review has
23 expired without proceedings for a review having been
24 instituted. In the case of a notice of tax liability that
25 becomes a final assessment without a protest and hearing,
26 the penalty provided in this paragraph (2) shall be imposed

1 at the expiration of the period provided for the filing of
2 a protest.

3 (b-5) This subsection is applicable to returns due on and
4 after January 1, 1998 and on or before December 31, 2000. A
5 penalty of 20% of the tax shown on the return or the tax
6 required to be shown due on the return shall be imposed for
7 failure to pay:

8 (1) the tax shown due on the return on or before the
9 due date prescribed for payment of that tax, an amount of
10 underpayment of estimated tax, or an amount that is
11 reported in an amended return other than an amended return
12 timely filed as required by subsection (b) of Section 506
13 of the Illinois Income Tax Act (penalty for late payment or
14 nonpayment of admitted liability); or

15 (2) the full amount of any tax required to be shown due
16 on a return and which is not shown (penalty for late
17 payment or nonpayment of additional liability), within 30
18 days after a notice of arithmetic error, notice and demand,
19 or a final assessment is issued by the Department. In the
20 case of a final assessment arising following a protest and
21 hearing, the 30-day period shall not begin until all
22 proceedings in court for review of the final assessment
23 have terminated or the period for obtaining a review has
24 expired without proceedings for a review having been
25 instituted. In the case of a notice of tax liability that
26 becomes a final assessment without a protest and hearing,

1 the penalty provided in this paragraph (2) shall be imposed
2 at the expiration of the period provided for the filing of
3 a protest.

4 (b-10) This subsection (b-10) is applicable to returns due
5 on and after January 1, 2001 and on or before December 31,
6 2003. A penalty shall be imposed for failure to pay:

7 (1) the tax shown due on a return on or before the due
8 date prescribed for payment of that tax, an amount of
9 underpayment of estimated tax, or an amount that is
10 reported in an amended return other than an amended return
11 timely filed as required by subsection (b) of Section 506
12 of the Illinois Income Tax Act (penalty for late payment or
13 nonpayment of admitted liability). The amount of penalty
14 imposed under this subsection (b-10) (1) shall be 2% of any
15 amount that is paid no later than 30 days after the due
16 date, 5% of any amount that is paid later than 30 days
17 after the due date and not later than 90 days after the due
18 date, 10% of any amount that is paid later than 90 days
19 after the due date and not later than 180 days after the
20 due date, and 15% of any amount that is paid later than 180
21 days after the due date. If notice and demand is made for
22 the payment of any amount of tax due and if the amount due
23 is paid within 30 days after the date of the notice and
24 demand, then the penalty for late payment or nonpayment of
25 admitted liability under this subsection (b-10) (1) on the
26 amount so paid shall not accrue for the period after the

1 date of the notice and demand.

2 (2) the full amount of any tax required to be shown due
3 on a return and that is not shown (penalty for late payment
4 or nonpayment of additional liability), within 30 days
5 after a notice of arithmetic error, notice and demand, or a
6 final assessment is issued by the Department. In the case
7 of a final assessment arising following a protest and
8 hearing, the 30-day period shall not begin until all
9 proceedings in court for review of the final assessment
10 have terminated or the period for obtaining a review has
11 expired without proceedings for a review having been
12 instituted. The amount of penalty imposed under this
13 subsection (b-10) (2) shall be 20% of any amount that is not
14 paid within the 30-day period. In the case of a notice of
15 tax liability that becomes a final assessment without a
16 protest and hearing, the penalty provided in this
17 subsection (b-10) (2) shall be imposed at the expiration of
18 the period provided for the filing of a protest.

19 (b-15) This subsection (b-15) is applicable to returns due
20 on and after January 1, 2004 and on or before December 31,
21 2004. A penalty shall be imposed for failure to pay the tax
22 shown due or required to be shown due on a return on or before
23 the due date prescribed for payment of that tax, an amount of
24 underpayment of estimated tax, or an amount that is reported in
25 an amended return other than an amended return timely filed as
26 required by subsection (b) of Section 506 of the Illinois

1 Income Tax Act (penalty for late payment or nonpayment of
2 admitted liability). The amount of penalty imposed under this
3 subsection (b-15) ~~(b-15)(1)~~ shall be 2% of any amount that is
4 paid no later than 30 days after the due date, 10% of any
5 amount that is paid later than 30 days after the due date and
6 not later than 90 days after the due date, 15% of any amount
7 that is paid later than 90 days after the due date and not
8 later than 180 days after the due date, and 20% of any amount
9 that is paid later than 180 days after the due date. If notice
10 and demand is made for the payment of any amount of tax due and
11 if the amount due is paid within 30 days after the date of this
12 notice and demand, then the penalty for late payment or
13 nonpayment of admitted liability under this subsection (b-15)
14 ~~(b-15)(1)~~ on the amount so paid shall not accrue for the period
15 after the date of the notice and demand.

16 (b-20) This subsection (b-20) is applicable to returns due
17 on and after January 1, 2005.

18 (1) A penalty shall be imposed for failure to pay,
19 prior to the due date for payment, any amount of tax the
20 payment of which is required to be made prior to the filing
21 of a return or without a return (penalty for late payment
22 or nonpayment of estimated or accelerated tax). The amount
23 of penalty imposed under this paragraph (1) shall be 2% of
24 any amount that is paid no later than 30 days after the due
25 date and 10% of any amount that is paid later than 30 days
26 after the due date.

1 (2) A penalty shall be imposed for failure to pay the
2 tax shown due or required to be shown due on a return on or
3 before the due date prescribed for payment of that tax or
4 an amount that is reported in an amended return other than
5 an amended return timely filed as required by subsection
6 (b) of Section 506 of the Illinois Income Tax Act (penalty
7 for late payment or nonpayment of tax). The amount of
8 penalty imposed under this paragraph (2) shall be 2% of any
9 amount that is paid no later than 30 days after the due
10 date, 10% of any amount that is paid later than 30 days
11 after the due date and prior to the date the Department has
12 initiated an audit or investigation of the taxpayer, and
13 20% of any amount that is paid after the date the
14 Department has initiated an audit or investigation of the
15 taxpayer; provided that the penalty shall be reduced to 15%
16 if the entire amount due is paid not later than 30 days
17 after the Department has provided the taxpayer with an
18 amended return (following completion of an occupation,
19 use, or excise tax audit) or a form for waiver of
20 restrictions on assessment (following completion of an
21 income tax audit); provided further that the reduction to
22 15% shall be rescinded if the taxpayer makes any claim for
23 refund or credit of the tax, penalties, or interest
24 determined to be due upon audit, except in the case of a
25 claim filed pursuant to subsection (b) of Section 506 of
26 the Illinois Income Tax Act or to claim a carryover of a

1 loss or credit, the availability of which was not
2 determined in the audit. For purposes of this paragraph
3 (2), any overpayment reported on an original return that
4 has been allowed as a refund or credit to the taxpayer
5 shall be deemed to have not been paid on or before the due
6 date for payment and any amount paid under protest pursuant
7 to the provisions of the State Officers and Employees Money
8 Disposition Act shall be deemed to have been paid after the
9 Department has initiated an audit and more than 30 days
10 after the Department has provided the taxpayer with an
11 amended return (following completion of an occupation,
12 use, or excise tax audit) or a form for waiver of
13 restrictions on assessment (following completion of an
14 income tax audit).

15 (3) The penalty imposed under this subsection (b-20)
16 shall be deemed assessed at the time the tax upon which the
17 penalty is computed is assessed, except that, if the
18 reduction of the penalty imposed under paragraph (2) of
19 this subsection (b-20) to 15% is rescinded because a claim
20 for refund or credit has been filed, the increase in
21 penalty shall be deemed assessed at the time the claim for
22 refund or credit is filed.

23 (c) For purposes of the late payment penalties, the basis
24 of the penalty shall be the tax shown or required to be shown
25 on a return, whichever is applicable, reduced by any part of
26 the tax which is paid on time and by any credit which was

1 properly allowable on the date the return was required to be
2 filed.

3 (d) A penalty shall be applied to the tax required to be
4 shown even if that amount is less than the tax shown on the
5 return.

6 (e) This subsection (e) is applicable to returns due before
7 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)
8 penalty and a subsection (b)(2) or (b-5)(2) penalty are
9 assessed against the same return, the subsection (b)(2) or
10 (b-5)(2) penalty shall be assessed against only the additional
11 tax found to be due.

12 (e-5) This subsection (e-5) is applicable to returns due on
13 and after January 1, 2001. If both a subsection (b-10)(1)
14 penalty and a subsection (b-10)(2) penalty are assessed against
15 the same return, the subsection (b-10)(2) penalty shall be
16 assessed against only the additional tax found to be due.

17 (f) If the taxpayer has failed to file the return, the
18 Department shall determine the correct tax according to its
19 best judgment and information, which amount shall be prima
20 facie evidence of the correctness of the tax due.

21 (g) The time within which to file a return or pay an amount
22 of tax due without imposition of a penalty does not extend the
23 time within which to file a protest to a notice of tax
24 liability or a notice of deficiency.

25 (h) No return shall be determined to be unprocessable
26 because of the omission of any information requested on the

1 return pursuant to Section 2505-575 of the Department of
2 Revenue Law (20 ILCS 2505/2505-575).

3 (i) If a taxpayer has a tax liability that is eligible for
4 amnesty under the Tax Delinquency Amnesty Act and the taxpayer
5 fails to satisfy the tax liability during the amnesty period
6 provided for in that Act, then the penalty imposed by the
7 Department under this Section shall be imposed in an amount
8 that is 200% of the amount that would otherwise be imposed
9 under this Section.

10 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,
11 eff. 6-20-03; 93-1068, eff. 1-15-05.)

12 Section 35. The Counties Code is amended by changing
13 Sections 5-1006, 5-1006.5, 5-1006.7, and 5-1007 as follows:

14 (55 ILCS 5/5-1006) (from Ch. 34, par. 5-1006)

15 Sec. 5-1006. Home Rule County Retailers' Occupation Tax
16 Law. Any county that is a home rule unit may impose a tax upon
17 all persons engaged in the business of selling tangible
18 personal property, other than an item of tangible personal
19 property titled or registered with an agency of this State's
20 government, at retail in the county on the gross receipts from
21 such sales made in the course of their business. If imposed,
22 this tax shall only be imposed in 1/4% increments. On and after
23 September 1, 1991, this additional tax may not be imposed on
24 the sales of food for human consumption which is to be consumed

1 off the premises where it is sold (other than alcoholic
2 beverages, soft drinks and food which has been prepared for
3 immediate consumption) and prescription and nonprescription
4 medicines, drugs, medical appliances, modifications to a motor
5 vehicle for the purpose of rendering it usable by a disabled
6 person, and insulin, urine testing materials, syringes and
7 needles used by diabetics. The tax imposed by a home rule
8 county pursuant to this Section and all civil penalties that
9 may be assessed as an incident thereof shall be collected and
10 enforced by the State Department of Revenue. The certificate of
11 registration that is issued by the Department to a retailer
12 under the Retailers' Occupation Tax Act shall permit the
13 retailer to engage in a business that is taxable under any
14 ordinance or resolution enacted pursuant to this Section
15 without registering separately with the Department under such
16 ordinance or resolution or under this Section. The Department
17 shall have full power to administer and enforce this Section;
18 to collect all taxes and penalties due hereunder; to dispose of
19 taxes and penalties so collected in the manner hereinafter
20 provided; and to determine all rights to credit memoranda
21 arising on account of the erroneous payment of tax or penalty
22 hereunder. In the administration of, and compliance with, this
23 Section, the Department and persons who are subject to this
24 Section shall have the same rights, remedies, privileges,
25 immunities, powers and duties, and be subject to the same
26 conditions, restrictions, limitations, penalties and

1 definitions of terms, and employ the same modes of procedure,
2 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
3 1k, 1m, 1n, 2 through 2-65 (in respect to all provisions
4 therein other than the State rate of tax), 4, 5, 5a, 5b, 5c,
5 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10,
6 11, 12 and 13 of the Retailers' Occupation Tax Act and Section
7 3-7 of the Uniform Penalty and Interest Act, as fully as if
8 those provisions were set forth herein.

9 No tax may be imposed by a home rule county pursuant to
10 this Section unless the county also imposes a tax at the same
11 rate pursuant to Section 5-1007.

12 Persons subject to any tax imposed pursuant to the
13 authority granted in this Section may reimburse themselves for
14 their seller's tax liability hereunder by separately stating
15 such tax as an additional charge, which charge may be stated in
16 combination, in a single amount, with State tax which sellers
17 are required to collect under the Use Tax Act, pursuant to such
18 bracket schedules as the Department may prescribe.

19 Whenever the Department determines that a refund should be
20 made under this Section to a claimant instead of issuing a
21 credit memorandum, the Department shall notify the State
22 Comptroller, who shall cause the order to be drawn for the
23 amount specified and to the person named in the notification
24 from the Department. The refund shall be paid by the State
25 Treasurer out of the home rule county retailers' occupation tax
26 fund.

1 The Department shall forthwith pay over to the State
2 Treasurer, ex officio, as trustee, all taxes and penalties
3 collected hereunder. On or before the 25th day of each calendar
4 month, the Department shall prepare and certify to the
5 Comptroller the disbursement of stated sums of money to named
6 counties, the counties to be those from which retailers have
7 paid taxes or penalties hereunder to the Department during the
8 second preceding calendar month. The amount to be paid to each
9 county shall be the amount (not including credit memoranda)
10 collected hereunder during the second preceding calendar month
11 by the Department plus an amount the Department determines is
12 necessary to offset any amounts that were erroneously paid to a
13 different taxing body, and not including an amount equal to the
14 amount of refunds made during the second preceding calendar
15 month by the Department on behalf of such county, and not
16 including any amount which the Department determines is
17 necessary to offset any amounts which were payable to a
18 different taxing body but were erroneously paid to the county.
19 Within 10 days after receipt, by the Comptroller, of the
20 disbursement certification to the counties provided for in this
21 Section to be given to the Comptroller by the Department, the
22 Comptroller shall cause the orders to be drawn for the
23 respective amounts in accordance with the directions contained
24 in the certification.

25 In addition to the disbursement required by the preceding
26 paragraph, an allocation shall be made in March of each year to

1 each county that received more than \$500,000 in disbursements
2 under the preceding paragraph in the preceding calendar year.
3 The allocation shall be in an amount equal to the average
4 monthly distribution made to each such county under the
5 preceding paragraph during the preceding calendar year
6 (excluding the 2 months of highest receipts). The distribution
7 made in March of each year subsequent to the year in which an
8 allocation was made pursuant to this paragraph and the
9 preceding paragraph shall be reduced by the amount allocated
10 and disbursed under this paragraph in the preceding calendar
11 year. The Department shall prepare and certify to the
12 Comptroller for disbursement the allocations made in
13 accordance with this paragraph.

14 For the purpose of determining the local governmental unit
15 whose tax is applicable, a retail sale by a producer of coal or
16 other mineral mined in Illinois is a sale at retail at the
17 place where the coal or other mineral mined in Illinois is
18 extracted from the earth. This paragraph does not apply to coal
19 or other mineral when it is delivered or shipped by the seller
20 to the purchaser at a point outside Illinois so that the sale
21 is exempt under the United States Constitution as a sale in
22 interstate or foreign commerce.

23 Nothing in this Section shall be construed to authorize a
24 county to impose a tax upon the privilege of engaging in any
25 business which under the Constitution of the United States may
26 not be made the subject of taxation by this State.

1 An ordinance or resolution imposing or discontinuing a tax
2 hereunder or effecting a change in the rate thereof shall be
3 adopted and a certified copy thereof filed with the Department
4 on or before the first day of June, whereupon the Department
5 shall proceed to administer and enforce this Section as of the
6 first day of September next following such adoption and filing.
7 Beginning January 1, 1992, an ordinance or resolution imposing
8 or discontinuing the tax hereunder or effecting a change in the
9 rate thereof shall be adopted and a certified copy thereof
10 filed with the Department on or before the first day of July,
11 whereupon the Department shall proceed to administer and
12 enforce this Section as of the first day of October next
13 following such adoption and filing. Beginning January 1, 1993,
14 an ordinance or resolution imposing or discontinuing the tax
15 hereunder or effecting a change in the rate thereof shall be
16 adopted and a certified copy thereof filed with the Department
17 on or before the first day of October, whereupon the Department
18 shall proceed to administer and enforce this Section as of the
19 first day of January next following such adoption and filing.
20 Beginning April 1, 1998, an ordinance or resolution imposing or
21 discontinuing the tax hereunder or effecting a change in the
22 rate thereof shall either (i) be adopted and a certified copy
23 thereof filed with the Department on or before the first day of
24 April, whereupon the Department shall proceed to administer and
25 enforce this Section as of the first day of July next following
26 the adoption and filing; or (ii) be adopted and a certified

1 copy thereof filed with the Department on or before the first
2 day of October, whereupon the Department shall proceed to
3 administer and enforce this Section as of the first day of
4 January next following the adoption and filing.

5 When certifying the amount of a monthly disbursement to a
6 county under this Section, the Department shall increase or
7 decrease such amount by an amount necessary to offset any
8 misallocation of previous disbursements. The offset amount
9 shall be the amount erroneously disbursed within the previous 6
10 months from the time a misallocation is discovered.

11 This Section shall be known and may be cited as the Home
12 Rule County Retailers' Occupation Tax Law.

13 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

14 (55 ILCS 5/5-1006.5)

15 Sec. 5-1006.5. Special County Retailers' Occupation Tax
16 For Public Safety or Transportation.

17 (a) The county board of any county may impose a tax upon
18 all persons engaged in the business of selling tangible
19 personal property, other than personal property titled or
20 registered with an agency of this State's government, at retail
21 in the county on the gross receipts from the sales made in the
22 course of business to provide revenue to be used exclusively
23 for public safety or transportation purposes in that county, if
24 a proposition for the tax has been submitted to the electors of
25 that county and approved by a majority of those voting on the

1 question. If imposed, this tax shall be imposed only in
2 one-quarter percent increments. By resolution, the county
3 board may order the proposition to be submitted at any
4 election. If the tax is imposed for transportation purposes for
5 expenditures for public highways or as authorized under the
6 Illinois Highway Code, the county board must publish notice of
7 the existence of its long-range highway transportation plan as
8 required or described in Section 5-301 of the Illinois Highway
9 Code and must make the plan publicly available prior to
10 approval of the ordinance or resolution imposing the tax. If
11 the tax is imposed for transportation purposes for expenditures
12 for passenger rail transportation, the county board must
13 publish notice of the existence of its long-range passenger
14 rail transportation plan and must make the plan publicly
15 available prior to approval of the ordinance or resolution
16 imposing the tax. The county clerk shall certify the question
17 to the proper election authority, who shall submit the
18 proposition at an election in accordance with the general
19 election law.

20 (1) The proposition for public safety purposes shall be
21 in substantially the following form:

22 "To pay for public safety purposes, shall (name of
23 county) be authorized to impose an increase on its share of
24 local sales taxes by (insert rate)?"

25 As additional information on the ballot below the
26 question shall appear the following:

1 "This would mean that a consumer would pay an
2 additional (insert amount) in sales tax for every \$100 of
3 tangible personal property bought at retail."

4 The county board may also opt to establish a sunset
5 provision at which time the additional sales tax would
6 cease being collected, if not terminated earlier by a vote
7 of the county board. If the county board votes to include a
8 sunset provision, the proposition for public safety
9 purposes shall be in substantially the following form:

10 "To pay for public safety purposes, shall (name of
11 county) be authorized to impose an increase on its share of
12 local sales taxes by (insert rate) for a period not to
13 exceed (insert number of years)?"

14 As additional information on the ballot below the
15 question shall appear the following:

16 "This would mean that a consumer would pay an
17 additional (insert amount) in sales tax for every \$100 of
18 tangible personal property bought at retail. If imposed,
19 the additional tax would cease being collected at the end
20 of (insert number of years), if not terminated earlier by a
21 vote of the county board."

22 For the purposes of the paragraph, "public safety
23 purposes" means crime prevention, detention, fire
24 fighting, police, medical, ambulance, or other emergency
25 services.

26 Votes shall be recorded as "Yes" or "No".

1 (2) The proposition for transportation purposes shall
2 be in substantially the following form:

3 "To pay for improvements to roads and other
4 transportation purposes, shall (name of county) be
5 authorized to impose an increase on its share of local
6 sales taxes by (insert rate)?"

7 As additional information on the ballot below the
8 question shall appear the following:

9 "This would mean that a consumer would pay an
10 additional (insert amount) in sales tax for every \$100 of
11 tangible personal property bought at retail."

12 The county board may also opt to establish a sunset
13 provision at which time the additional sales tax would
14 cease being collected, if not terminated earlier by a vote
15 of the county board. If the county board votes to include a
16 sunset provision, the proposition for transportation
17 purposes shall be in substantially the following form:

18 "To pay for road improvements and other transportation
19 purposes, shall (name of county) be authorized to impose an
20 increase on its share of local sales taxes by (insert rate)
21 for a period not to exceed (insert number of years)?"

22 As additional information on the ballot below the
23 question shall appear the following:

24 "This would mean that a consumer would pay an
25 additional (insert amount) in sales tax for every \$100 of
26 tangible personal property bought at retail. If imposed,

1 the additional tax would cease being collected at the end
2 of (insert number of years), if not terminated earlier by a
3 vote of the county board."

4 For the purposes of this paragraph, transportation
5 purposes means construction, maintenance, operation, and
6 improvement of public highways, any other purpose for which
7 a county may expend funds under the Illinois Highway Code,
8 and passenger rail transportation.

9 The votes shall be recorded as "Yes" or "No".

10 If a majority of the electors voting on the proposition
11 vote in favor of it, the county may impose the tax. A county
12 may not submit more than one proposition authorized by this
13 Section to the electors at any one time.

14 This additional tax may not be imposed on the sales of food
15 for human consumption that is to be consumed off the premises
16 where it is sold (other than alcoholic beverages, soft drinks,
17 and food which has been prepared for immediate consumption) and
18 prescription and non-prescription medicines, drugs, medical
19 appliances, modifications to a motor vehicle for the purpose of
20 rendering it usable by a disabled person, and insulin, urine
21 testing materials, syringes, and needles used by diabetics. The
22 tax imposed by a county under this Section and all civil
23 penalties that may be assessed as an incident of the tax shall
24 be collected and enforced by the Illinois Department of Revenue
25 and deposited into a special fund created for that purpose. The
26 certificate of registration that is issued by the Department to

1 a retailer under the Retailers' Occupation Tax Act shall permit
2 the retailer to engage in a business that is taxable without
3 registering separately with the Department under an ordinance
4 or resolution under this Section. The Department has full power
5 to administer and enforce this Section, to collect all taxes
6 and penalties due under this Section, to dispose of taxes and
7 penalties so collected in the manner provided in this Section,
8 and to determine all rights to credit memoranda arising on
9 account of the erroneous payment of a tax or penalty under this
10 Section. In the administration of and compliance with this
11 Section, the Department and persons who are subject to this
12 Section shall (i) have the same rights, remedies, privileges,
13 immunities, powers, and duties, (ii) be subject to the same
14 conditions, restrictions, limitations, penalties, and
15 definitions of terms, and (iii) employ the same modes of
16 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,
17 1f, 1i, 1j, 1k, 1m, 1n, 2 through 2-70 (in respect to all
18 provisions contained in those Sections other than the State
19 rate of tax), 2a, 2b, 2c, 3 (except provisions relating to
20 transaction returns and quarter monthly payments), 4, 5, 5a,
21 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
22 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
23 and Section 3-7 of the Uniform Penalty and Interest Act as if
24 those provisions were set forth in this Section.

25 Persons subject to any tax imposed under the authority
26 granted in this Section may reimburse themselves for their

1 sellers' tax liability by separately stating the tax as an
2 additional charge, which charge may be stated in combination,
3 in a single amount, with State tax which sellers are required
4 to collect under the Use Tax Act, pursuant to such bracketed
5 schedules as the Department may prescribe.

6 Whenever the Department determines that a refund should be
7 made under this Section to a claimant instead of issuing a
8 credit memorandum, the Department shall notify the State
9 Comptroller, who shall cause the order to be drawn for the
10 amount specified and to the person named in the notification
11 from the Department. The refund shall be paid by the State
12 Treasurer out of the County Public Safety or Transportation
13 Retailers' Occupation Tax Fund.

14 (b) If a tax has been imposed under subsection (a), a
15 service occupation tax shall also be imposed at the same rate
16 upon all persons engaged, in the county, in the business of
17 making sales of service, who, as an incident to making those
18 sales of service, transfer tangible personal property within
19 the county as an incident to a sale of service. This tax may
20 not be imposed on sales of food for human consumption that is
21 to be consumed off the premises where it is sold (other than
22 alcoholic beverages, soft drinks, and food prepared for
23 immediate consumption) and prescription and non-prescription
24 medicines, drugs, medical appliances, modifications to a motor
25 vehicle for the purpose of rendering it usable by a disabled
26 person, and insulin, urine testing materials, syringes, and

1 needles used by diabetics. The tax imposed under this
2 subsection and all civil penalties that may be assessed as an
3 incident thereof shall be collected and enforced by the
4 Department of Revenue. The Department has full power to
5 administer and enforce this subsection; to collect all taxes
6 and penalties due hereunder; to dispose of taxes and penalties
7 so collected in the manner hereinafter provided; and to
8 determine all rights to credit memoranda arising on account of
9 the erroneous payment of tax or penalty hereunder. In the
10 administration of, and compliance with this subsection, the
11 Department and persons who are subject to this paragraph shall
12 (i) have the same rights, remedies, privileges, immunities,
13 powers, and duties, (ii) be subject to the same conditions,
14 restrictions, limitations, penalties, exclusions, exemptions,
15 and definitions of terms, and (iii) employ the same modes of
16 procedure as are prescribed in Sections 2 (except that the
17 reference to State in the definition of supplier maintaining a
18 place of business in this State shall mean the county), 2a, 2b,
19 2c, 3 through 3-50 (in respect to all provisions therein other
20 than the State rate of tax), 4 (except that the reference to
21 the State shall be to the county), 5, 7, 8 (except that the
22 jurisdiction to which the tax shall be a debt to the extent
23 indicated in that Section 8 shall be the county), 9 (except as
24 to the disposition of taxes and penalties collected), 10, 11,
25 12 (except the reference therein to Section 2b of the
26 Retailers' Occupation Tax Act), 13 (except that any reference

1 to the State shall mean the county), Section 15, 16, 17, 18, 19
2 and 20 of the Service Occupation Tax Act and Section 3-7 of the
3 Uniform Penalty and Interest Act, as fully as if those
4 provisions were set forth herein.

5 Persons subject to any tax imposed under the authority
6 granted in this subsection may reimburse themselves for their
7 serviceman's tax liability by separately stating the tax as an
8 additional charge, which charge may be stated in combination,
9 in a single amount, with State tax that servicemen are
10 authorized to collect under the Service Use Tax Act, in
11 accordance with such bracket schedules as the Department may
12 prescribe.

13 Whenever the Department determines that a refund should be
14 made under this subsection to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the warrant to be drawn for the
17 amount specified, and to the person named, in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the County Public Safety or Transportation
20 Retailers' Occupation Fund.

21 Nothing in this subsection shall be construed to authorize
22 the county to impose a tax upon the privilege of engaging in
23 any business which under the Constitution of the United States
24 may not be made the subject of taxation by the State.

25 (c) The Department shall immediately pay over to the State
26 Treasurer, ex officio, as trustee, all taxes and penalties

1 collected under this Section to be deposited into the County
2 Public Safety or Transportation Retailers' Occupation Tax
3 Fund, which shall be an unappropriated trust fund held outside
4 of the State treasury. On or before the 25th day of each
5 calendar month, the Department shall prepare and certify to the
6 Comptroller the disbursement of stated sums of money to the
7 counties from which retailers have paid taxes or penalties to
8 the Department during the second preceding calendar month. The
9 amount to be paid to each county, and deposited by the county
10 into its special fund created for the purposes of this Section,
11 shall be the amount (not including credit memoranda) collected
12 under this Section during the second preceding calendar month
13 by the Department plus an amount the Department determines is
14 necessary to offset any amounts that were erroneously paid to a
15 different taxing body, and not including (i) an amount equal to
16 the amount of refunds made during the second preceding calendar
17 month by the Department on behalf of the county and (ii) any
18 amount that the Department determines is necessary to offset
19 any amounts that were payable to a different taxing body but
20 were erroneously paid to the county. Within 10 days after
21 receipt by the Comptroller of the disbursement certification to
22 the counties provided for in this Section to be given to the
23 Comptroller by the Department, the Comptroller shall cause the
24 orders to be drawn for the respective amounts in accordance
25 with directions contained in the certification.

26 In addition to the disbursement required by the preceding

1 paragraph, an allocation shall be made in March of each year to
2 each county that received more than \$500,000 in disbursements
3 under the preceding paragraph in the preceding calendar year.
4 The allocation shall be in an amount equal to the average
5 monthly distribution made to each such county under the
6 preceding paragraph during the preceding calendar year
7 (excluding the 2 months of highest receipts). The distribution
8 made in March of each year subsequent to the year in which an
9 allocation was made pursuant to this paragraph and the
10 preceding paragraph shall be reduced by the amount allocated
11 and disbursed under this paragraph in the preceding calendar
12 year. The Department shall prepare and certify to the
13 Comptroller for disbursement the allocations made in
14 accordance with this paragraph.

15 (d) For the purpose of determining the local governmental
16 unit whose tax is applicable, a retail sale by a producer of
17 coal or another mineral mined in Illinois is a sale at retail
18 at the place where the coal or other mineral mined in Illinois
19 is extracted from the earth. This paragraph does not apply to
20 coal or another mineral when it is delivered or shipped by the
21 seller to the purchaser at a point outside Illinois so that the
22 sale is exempt under the United States Constitution as a sale
23 in interstate or foreign commerce.

24 (e) Nothing in this Section shall be construed to authorize
25 a county to impose a tax upon the privilege of engaging in any
26 business that under the Constitution of the United States may

1 not be made the subject of taxation by this State.

2 (e-5) If a county imposes a tax under this Section, the
3 county board may, by ordinance, discontinue or lower the rate
4 of the tax. If the county board lowers the tax rate or
5 discontinues the tax, a referendum must be held in accordance
6 with subsection (a) of this Section in order to increase the
7 rate of the tax or to reimpose the discontinued tax.

8 (f) Beginning April 1, 1998, the results of any election
9 authorizing a proposition to impose a tax under this Section or
10 effecting a change in the rate of tax, or any ordinance
11 lowering the rate or discontinuing the tax, shall be certified
12 by the county clerk and filed with the Illinois Department of
13 Revenue either (i) on or before the first day of April,
14 whereupon the Department shall proceed to administer and
15 enforce the tax as of the first day of July next following the
16 filing; or (ii) on or before the first day of October,
17 whereupon the Department shall proceed to administer and
18 enforce the tax as of the first day of January next following
19 the filing.

20 (g) When certifying the amount of a monthly disbursement to
21 a county under this Section, the Department shall increase or
22 decrease the amounts by an amount necessary to offset any
23 miscalculation of previous disbursements. The offset amount
24 shall be the amount erroneously disbursed within the previous 6
25 months from the time a miscalculation is discovered.

26 (h) This Section may be cited as the "Special County

1 Occupation Tax For Public Safety or Transportation Law".

2 (i) For purposes of this Section, "public safety" includes,
3 but is not limited to, crime prevention, detention, fire
4 fighting, police, medical, ambulance, or other emergency
5 services. For the purposes of this Section, "transportation"
6 includes, but is not limited to, the construction, maintenance,
7 operation, and improvement of public highways, any other
8 purpose for which a county may expend funds under the Illinois
9 Highway Code, and passenger rail transportation.

10 (Source: P.A. 94-781, eff. 5-19-06; 95-474, eff. 1-1-08.)

11 (55 ILCS 5/5-1006.7)

12 Sec. 5-1006.7. School facility occupation taxes.

13 (a) The county board of any county may impose a tax upon
14 all persons engaged in the business of selling tangible
15 personal property, other than personal property titled or
16 registered with an agency of this State's government, at retail
17 in the county on the gross receipts from the sales made in the
18 course of business to provide revenue to be used exclusively
19 for school facility purposes if a proposition for the tax has
20 been submitted to the electors of that county and approved by a
21 majority of those voting on the question as provided in
22 subsection (c). The tax under this Section may be imposed only
23 in one-quarter percent increments and may not exceed 1%.

24 This additional tax may not be imposed on the sale of food
25 for human consumption that is to be consumed off the premises

1 where it is sold (other than alcoholic beverages, soft drinks,
2 and food that has been prepared for immediate consumption) and
3 prescription and non-prescription medicines, drugs, medical
4 appliances, modifications to a motor vehicle for the purpose of
5 rendering it usable by a disabled person, and insulin, urine
6 testing materials, syringes and needles used by diabetics. The
7 Department of Revenue has full power to administer and enforce
8 this subsection, to collect all taxes and penalties due under
9 this subsection, to dispose of taxes and penalties so collected
10 in the manner provided in this subsection, and to determine all
11 rights to credit memoranda arising on account of the erroneous
12 payment of a tax or penalty under this subsection. The
13 Department shall deposit all taxes and penalties collected
14 under this subsection into a special fund created for that
15 purpose.

16 In the administration of and compliance with this
17 subsection, the Department and persons who are subject to this
18 subsection (i) have the same rights, remedies, privileges,
19 immunities, powers, and duties, (ii) are subject to the same
20 conditions, restrictions, limitations, penalties, and
21 definitions of terms, and (iii) shall employ the same modes of
22 procedure as are set forth in Sections 1 through 1o, 2 through
23 2-70 (in respect to all provisions contained in those Sections
24 other than the State rate of tax), 2a through 2h, 3 (except as
25 to the disposition of taxes and penalties collected), 4, 5, 5a,
26 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,

1 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act
2 and all provisions of the Uniform Penalty and Interest Act as
3 if those provisions were set forth in this subsection.

4 The certificate of registration that is issued by the
5 Department to a retailer under the Retailers' Occupation Tax
6 Act permits the retailer to engage in a business that is
7 taxable without registering separately with the Department
8 under an ordinance or resolution under this subsection.

9 Persons subject to any tax imposed under the authority
10 granted in this subsection may reimburse themselves for their
11 seller's tax liability by separately stating that tax as an
12 additional charge, which may be stated in combination, in a
13 single amount, with State tax that sellers are required to
14 collect under the Use Tax Act, pursuant to any bracketed
15 schedules set forth by the Department.

16 (b) If a tax has been imposed under subsection (a), then a
17 service occupation tax must also be imposed at the same rate
18 upon all persons engaged, in the county, in the business of
19 making sales of service, who, as an incident to making those
20 sales of service, transfer tangible personal property within
21 the county as an incident to a sale of service.

22 This tax may not be imposed on sales of food for human
23 consumption that is to be consumed off the premises where it is
24 sold (other than alcoholic beverages, soft drinks, and food
25 prepared for immediate consumption) and prescription and
26 non-prescription medicines, drugs, medical appliances, and

1 modifications to a motor vehicle for the purpose of rendering
2 it usable by a disabled person, and insulin, urine testing
3 materials, syringes, and needles used by diabetics.

4 The tax imposed under this subsection and all civil
5 penalties that may be assessed as an incident thereof shall be
6 collected and enforced by the Department and deposited into a
7 special fund created for that purpose. The Department has full
8 power to administer and enforce this subsection, to collect all
9 taxes and penalties due under this subsection, to dispose of
10 taxes and penalties so collected in the manner provided in this
11 subsection, and to determine all rights to credit memoranda
12 arising on account of the erroneous payment of a tax or penalty
13 under this subsection.

14 In the administration of and compliance with this
15 subsection, the Department and persons who are subject to this
16 subsection shall (i) have the same rights, remedies,
17 privileges, immunities, powers and duties, (ii) be subject to
18 the same conditions, restrictions, limitations, penalties and
19 definition of terms, and (iii) employ the same modes of
20 procedure as are set forth in Sections 2 (except that that
21 reference to State in the definition of supplier maintaining a
22 place of business in this State means the county), 2a through
23 2d, 3 through 3-50 (in respect to all provisions contained in
24 those Sections other than the State rate of tax), 4 (except
25 that the reference to the State shall be to the county), 5, 7,
26 8 (except that the jurisdiction to which the tax is a debt to

1 the extent indicated in that Section 8 is the county), 9
2 (except as to the disposition of taxes and penalties
3 collected), 10, 11, 12 (except the reference therein to Section
4 2b of the Retailers' Occupation Tax Act), 13 (except that any
5 reference to the State means the county), Section 15, 16, 17,
6 18, 19, and 20 of the Service Occupation Tax Act and all
7 provisions of the Uniform Penalty and Interest Act, as fully as
8 if those provisions were set forth herein.

9 Persons subject to any tax imposed under the authority
10 granted in this subsection may reimburse themselves for their
11 serviceman's tax liability by separately stating the tax as an
12 additional charge, which may be stated in combination, in a
13 single amount, with State tax that servicemen are authorized to
14 collect under the Service Use Tax Act, pursuant to any
15 bracketed schedules set forth by the Department.

16 (c) The tax under this Section may not be imposed until, by
17 ordinance or resolution of the county board, the question of
18 imposing the tax has been submitted to the electors of the
19 county at a regular election and approved by a majority of the
20 electors voting on the question. Upon a resolution by the
21 county board or a resolution by school district boards that
22 represent at least 51% of the student enrollment within the
23 county, the county board must certify the question to the
24 proper election authority in accordance with the Election Code.

25 The election authority must submit the question in
26 substantially the following form:

1 Shall (name of county) be authorized to impose a
2 retailers' occupation tax and a service occupation tax
3 (commonly referred to as a "sales tax") at a rate of
4 (insert rate) to be used exclusively for school facility
5 purposes?

6 The election authority must record the votes as "Yes" or "No".

7 If a majority of the electors voting on the question vote
8 in the affirmative, then the county may, thereafter, impose the
9 tax.

10 For the purposes of this subsection (c), "enrollment" means
11 the head count of the students residing in the county on the
12 last school day of September of each year, which must be
13 reported on the Illinois State Board of Education Public School
14 Fall Enrollment/Housing Report.

15 (d) The Department shall immediately pay over to the State
16 Treasurer, ex officio, as trustee, all taxes and penalties
17 collected under this Section to be deposited into the School
18 Facility Occupation Tax Fund, which shall be an unappropriated
19 trust fund held outside the State treasury.

20 On or before the 25th day of each calendar month, the
21 Department shall prepare and certify to the Comptroller the
22 disbursement of stated sums of money to the regional
23 superintendents of schools in counties from which retailers or
24 servicemen have paid taxes or penalties to the Department
25 during the second preceding calendar month. The amount to be
26 paid to each regional superintendent of schools and disbursed

1 to him or her in accordance with 3-14.31 of the School Code, is
2 equal to the amount (not including credit memoranda) collected
3 from the county under this Section during the second preceding
4 calendar month by the Department, (i) less 2% of that amount,
5 which shall be deposited into the Tax Compliance and
6 Administration Fund and shall be used by the Department,
7 subject to appropriation, to cover the costs of the Department
8 in administering and enforcing the provisions of this Section,
9 on behalf of the county, (ii) plus an amount that the
10 Department determines is necessary to offset any amounts that
11 were erroneously paid to a different taxing body; (iii) less an
12 amount equal to the amount of refunds made during the second
13 preceding calendar month by the Department on behalf of the
14 county; and (iv) less any amount that the Department determines
15 is necessary to offset any amounts that were payable to a
16 different taxing body but were erroneously paid to the county.
17 When certifying the amount of a monthly disbursement to a
18 regional superintendent of schools under this Section, the
19 Department shall increase or decrease the amounts by an amount
20 necessary to offset any miscalculation of previous
21 disbursements within the previous 6 months from the time a
22 miscalculation is discovered.

23 Within 10 days after receipt by the Comptroller from the
24 Department of the disbursement certification to the regional
25 superintendents of the schools provided for in this Section,
26 the Comptroller shall cause the orders to be drawn for the

1 respective amounts in accordance with directions contained in
2 the certification.

3 If the Department determines that a refund should be made
4 under this Section to a claimant instead of issuing a credit
5 memorandum, then the Department shall notify the Comptroller,
6 who shall cause the order to be drawn for the amount specified
7 and to the person named in the notification from the
8 Department. The refund shall be paid by the Treasurer out of
9 the School Facility Occupation Tax Fund.

10 (e) For the purposes of determining the local governmental
11 unit whose tax is applicable, a retail sale by a producer of
12 coal or another mineral mined in Illinois is a sale at retail
13 at the place where the coal or other mineral mined in Illinois
14 is extracted from the earth. This subsection does not apply to
15 coal or another mineral when it is delivered or shipped by the
16 seller to the purchaser at a point outside Illinois so that the
17 sale is exempt under the United States Constitution as a sale
18 in interstate or foreign commerce.

19 (f) Nothing in this Section may be construed to authorize a
20 county board to impose a tax upon the privilege of engaging in
21 any business that under the Constitution of the United States
22 may not be made the subject of taxation by this State.

23 (g) If a county board imposes a tax under this Section,
24 then the board may, by ordinance, discontinue or reduce the
25 rate of the tax. If, however, a school board issues bonds that
26 are backed by the proceeds of the tax under this Section, then

1 the county board may not reduce the tax rate or discontinue the
2 tax if that rate reduction or discontinuance would inhibit the
3 school board's ability to pay the principal and interest on
4 those bonds as they become due. If the county board reduces the
5 tax rate or discontinues the tax, then a referendum must be
6 held in accordance with subsection (c) of this Section in order
7 to increase the rate of the tax or to reimpose the discontinued
8 tax.

9 The results of any election that authorizes a proposition
10 to impose a tax under this Section or to change the rate of the
11 tax along with an ordinance imposing the tax, or any ordinance
12 that lowers the rate or discontinues the tax, must be certified
13 by the county clerk and filed with the Illinois Department of
14 Revenue either (i) on or before the first day of April,
15 whereupon the Department shall proceed to administer and
16 enforce the tax or change in the rate as of the first day of
17 July next following the filing; or (ii) on or before the first
18 day of October, whereupon the Department shall proceed to
19 administer and enforce the tax or change in the rate as of the
20 first day of January next following the filing.

21 (h) For purposes of this Section, "school facility
22 purposes" means the acquisition, development, construction,
23 reconstruction, rehabilitation, improvement, financing,
24 architectural planning, and installation of capital facilities
25 consisting of buildings, structures, and durable equipment and
26 for the acquisition and improvement of real property and

1 interest in real property required, or expected to be required,
2 in connection with the capital facilities. "School-facility
3 purposes" also includes fire prevention, safety, energy
4 conservation, disabled accessibility, school security, and
5 specified repair purposes set forth under Section 17-2.11 of
6 the School Code.

7 (i) This Section does not apply to Cook County.

8 (j) This Section may be cited as the County School Facility
9 Occupation Tax Law.

10 (Source: P.A. 95-675, eff. 10-11-07.)

11 (55 ILCS 5/5-1007) (from Ch. 34, par. 5-1007)

12 Sec. 5-1007. Home Rule County Service Occupation Tax Law.
13 The corporate authorities of a home rule county may impose a
14 tax upon all persons engaged, in such county, in the business
15 of making sales of service at the same rate of tax imposed
16 pursuant to Section 5-1006 of the selling price of all tangible
17 personal property transferred by such servicemen either in the
18 form of tangible personal property or in the form of real
19 estate as an incident to a sale of service. If imposed, such
20 tax shall only be imposed in 1/4% increments. On and after
21 September 1, 1991, this additional tax may not be imposed on
22 the sales of food for human consumption which is to be consumed
23 off the premises where it is sold (other than alcoholic
24 beverages, soft drinks and food which has been prepared for
25 immediate consumption) and prescription and nonprescription

1 medicines, drugs, medical appliances, modifications to a motor
2 vehicle for the purpose of rendering it usable by a disabled
3 person, and insulin, urine testing materials, syringes and
4 needles used by diabetics. The tax imposed by a home rule
5 county pursuant to this Section and all civil penalties that
6 may be assessed as an incident thereof shall be collected and
7 enforced by the State Department of Revenue. The certificate of
8 registration which is issued by the Department to a retailer
9 under the Retailers' Occupation Tax Act or under the Service
10 Occupation Tax Act shall permit such registrant to engage in a
11 business which is taxable under any ordinance or resolution
12 enacted pursuant to this Section without registering
13 separately with the Department under such ordinance or
14 resolution or under this Section. The Department shall have
15 full power to administer and enforce this Section; to collect
16 all taxes and penalties due hereunder; to dispose of taxes and
17 penalties so collected in the manner hereinafter provided; and
18 to determine all rights to credit memoranda arising on account
19 of the erroneous payment of tax or penalty hereunder. In the
20 administration of, and compliance with, this Section the
21 Department and persons who are subject to this Section shall
22 have the same rights, remedies, privileges, immunities, powers
23 and duties, and be subject to the same conditions,
24 restrictions, limitations, penalties and definitions of terms,
25 and employ the same modes of procedure, as are prescribed in
26 Sections 1a-1, 2, 2a, 3 through 3-50 (in respect to all

1 provisions therein other than the State rate of tax), 4 (except
2 that the reference to the State shall be to the taxing county),
3 5, 7, 8 (except that the jurisdiction to which the tax shall be
4 a debt to the extent indicated in that Section 8 shall be the
5 taxing county), 9 (except as to the disposition of taxes and
6 penalties collected, and except that the returned merchandise
7 credit for this county tax may not be taken against any State
8 tax), 10, 11, 12 (except the reference therein to Section 2b of
9 the Retailers' Occupation Tax Act), 13 (except that any
10 reference to the State shall mean the taxing county), the first
11 paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service
12 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
13 Interest Act, as fully as if those provisions were set forth
14 herein.

15 No tax may be imposed by a home rule county pursuant to
16 this Section unless such county also imposes a tax at the same
17 rate pursuant to Section 5-1006.

18 Persons subject to any tax imposed pursuant to the
19 authority granted in this Section may reimburse themselves for
20 their serviceman's tax liability hereunder by separately
21 stating such tax as an additional charge, which charge may be
22 stated in combination, in a single amount, with State tax which
23 servicemen are authorized to collect under the Service Use Tax
24 Act, pursuant to such bracket schedules as the Department may
25 prescribe.

26 Whenever the Department determines that a refund should be

1 made under this Section to a claimant instead of issuing credit
2 memorandum, the Department shall notify the State Comptroller,
3 who shall cause the order to be drawn for the amount specified,
4 and to the person named, in such notification from the
5 Department. Such refund shall be paid by the State Treasurer
6 out of the home rule county retailers' occupation tax fund.

7 The Department shall forthwith pay over to the State
8 Treasurer, ex-officio, as trustee, all taxes and penalties
9 collected hereunder. On or before the 25th day of each calendar
10 month, the Department shall prepare and certify to the
11 Comptroller the disbursement of stated sums of money to named
12 counties, the counties to be those from which suppliers and
13 servicemen have paid taxes or penalties hereunder to the
14 Department during the second preceding calendar month. The
15 amount to be paid to each county shall be the amount (not
16 including credit memoranda) collected hereunder during the
17 second preceding calendar month by the Department, and not
18 including an amount equal to the amount of refunds made during
19 the second preceding calendar month by the Department on behalf
20 of such county. Within 10 days after receipt, by the
21 Comptroller, of the disbursement certification to the counties
22 provided for in this Section to be given to the Comptroller by
23 the Department, the Comptroller shall cause the orders to be
24 drawn for the respective amounts in accordance with the
25 directions contained in such certification.

26 In addition to the disbursement required by the preceding

1 paragraph, an allocation shall be made in each year to each
2 county which received more than \$500,000 in disbursements under
3 the preceding paragraph in the preceding calendar year. The
4 allocation shall be in an amount equal to the average monthly
5 distribution made to each such county under the preceding
6 paragraph during the preceding calendar year (excluding the 2
7 months of highest receipts). The distribution made in March of
8 each year subsequent to the year in which an allocation was
9 made pursuant to this paragraph and the preceding paragraph
10 shall be reduced by the amount allocated and disbursed under
11 this paragraph in the preceding calendar year. The Department
12 shall prepare and certify to the Comptroller for disbursement
13 the allocations made in accordance with this paragraph.

14 Nothing in this Section shall be construed to authorize a
15 county to impose a tax upon the privilege of engaging in any
16 business which under the Constitution of the United States may
17 not be made the subject of taxation by this State.

18 An ordinance or resolution imposing or discontinuing a tax
19 hereunder or effecting a change in the rate thereof shall be
20 adopted and a certified copy thereof filed with the Department
21 on or before the first day of June, whereupon the Department
22 shall proceed to administer and enforce this Section as of the
23 first day of September next following such adoption and filing.
24 Beginning January 1, 1992, an ordinance or resolution imposing
25 or discontinuing the tax hereunder or effecting a change in the
26 rate thereof shall be adopted and a certified copy thereof

1 filed with the Department on or before the first day of July,
2 whereupon the Department shall proceed to administer and
3 enforce this Section as of the first day of October next
4 following such adoption and filing. Beginning January 1, 1993,
5 an ordinance or resolution imposing or discontinuing the tax
6 hereunder or effecting a change in the rate thereof shall be
7 adopted and a certified copy thereof filed with the Department
8 on or before the first day of October, whereupon the Department
9 shall proceed to administer and enforce this Section as of the
10 first day of January next following such adoption and filing.
11 Beginning April 1, 1998, an ordinance or resolution imposing or
12 discontinuing the tax hereunder or effecting a change in the
13 rate thereof shall either (i) be adopted and a certified copy
14 thereof filed with the Department on or before the first day of
15 April, whereupon the Department shall proceed to administer and
16 enforce this Section as of the first day of July next following
17 the adoption and filing; or (ii) be adopted and a certified
18 copy thereof filed with the Department on or before the first
19 day of October, whereupon the Department shall proceed to
20 administer and enforce this Section as of the first day of
21 January next following the adoption and filing.

22 This Section shall be known and may be cited as the Home
23 Rule County Service Occupation Tax Law.

24 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

1 Section 40. The Counties Code is amended by repealing
2 Section 5-1035.

3 Section 45. The Illinois Municipal Code is amended by
4 changing Sections 8-11-1, 8-11-1.1, 8-11-1.3, 8-11-1.4,
5 8-11-5, and 11-74.3-6 as follows:

6 (65 ILCS 5/8-11-1) (from Ch. 24, par. 8-11-1)

7 Sec. 8-11-1. Home Rule Municipal Retailers' Occupation Tax
8 Act. The corporate authorities of a home rule municipality may
9 impose a tax upon all persons engaged in the business of
10 selling tangible personal property, other than an item of
11 tangible personal property titled or registered with an agency
12 of this State's government, at retail in the municipality on
13 the gross receipts from these sales made in the course of such
14 business. If imposed, the tax shall only be imposed in 1/4%
15 increments. On and after September 1, 1991, this additional tax
16 may not be imposed on the sales of food for human consumption
17 that is to be consumed off the premises where it is sold (other
18 than alcoholic beverages, soft drinks and food that has been
19 prepared for immediate consumption) and prescription and
20 nonprescription medicines, drugs, medical appliances,
21 modifications to a motor vehicle for the purpose of rendering
22 it usable by a disabled person, and insulin, urine testing
23 materials, syringes and needles used by diabetics. The tax
24 imposed by a home rule municipality under this Section and all

1 civil penalties that may be assessed as an incident of the tax
2 shall be collected and enforced by the State Department of
3 Revenue. The certificate of registration that is issued by the
4 Department to a retailer under the Retailers' Occupation Tax
5 Act shall permit the retailer to engage in a business that is
6 taxable under any ordinance or resolution enacted pursuant to
7 this Section without registering separately with the
8 Department under such ordinance or resolution or under this
9 Section. The Department shall have full power to administer and
10 enforce this Section; to collect all taxes and penalties due
11 hereunder; to dispose of taxes and penalties so collected in
12 the manner hereinafter provided; and to determine all rights to
13 credit memoranda arising on account of the erroneous payment of
14 tax or penalty hereunder. In the administration of, and
15 compliance with, this Section the Department and persons who
16 are subject to this Section shall have the same rights,
17 remedies, privileges, immunities, powers and duties, and be
18 subject to the same conditions, restrictions, limitations,
19 penalties and definitions of terms, and employ the same modes
20 of procedure, as are prescribed in Sections 1, 1a, 1d, 1e, 1f,
21 1i, 1j, 1k, 1m, 1n, 2 through 2-65 (in respect to all
22 provisions therein other than the State rate of tax), 2c, 3
23 (except as to the disposition of taxes and penalties
24 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,
25 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'
26 Occupation Tax Act and Section 3-7 of the Uniform Penalty and

1 Interest Act, as fully as if those provisions were set forth
2 herein.

3 No tax may be imposed by a home rule municipality under
4 this Section unless the municipality also imposes a tax at the
5 same rate under Section 8-11-5 of this Act.

6 Persons subject to any tax imposed under the authority
7 granted in this Section may reimburse themselves for their
8 seller's tax liability hereunder by separately stating that tax
9 as an additional charge, which charge may be stated in
10 combination, in a single amount, with State tax which sellers
11 are required to collect under the Use Tax Act, pursuant to such
12 bracket schedules as the Department may prescribe.

13 Whenever the Department determines that a refund should be
14 made under this Section to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the order to be drawn for the
17 amount specified and to the person named in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the home rule municipal retailers' occupation
20 tax fund.

21 The Department shall immediately pay over to the State
22 Treasurer, ex officio, as trustee, all taxes and penalties
23 collected hereunder. On or before the 25th day of each calendar
24 month, the Department shall prepare and certify to the
25 Comptroller the disbursement of stated sums of money to named
26 municipalities, the municipalities to be those from which

1 retailers have paid taxes or penalties hereunder to the
2 Department during the second preceding calendar month. The
3 amount to be paid to each municipality shall be the amount (not
4 including credit memoranda) collected hereunder during the
5 second preceding calendar month by the Department plus an
6 amount the Department determines is necessary to offset any
7 amounts that were erroneously paid to a different taxing body,
8 and not including an amount equal to the amount of refunds made
9 during the second preceding calendar month by the Department on
10 behalf of such municipality, and not including any amount that
11 the Department determines is necessary to offset any amounts
12 that were payable to a different taxing body but were
13 erroneously paid to the municipality. Within 10 days after
14 receipt by the Comptroller of the disbursement certification to
15 the municipalities provided for in this Section to be given to
16 the Comptroller by the Department, the Comptroller shall cause
17 the orders to be drawn for the respective amounts in accordance
18 with the directions contained in the certification.

19 In addition to the disbursement required by the preceding
20 paragraph and in order to mitigate delays caused by
21 distribution procedures, an allocation shall, if requested, be
22 made within 10 days after January 14, 1991, and in November of
23 1991 and each year thereafter, to each municipality that
24 received more than \$500,000 during the preceding fiscal year,
25 (July 1 through June 30) whether collected by the municipality
26 or disbursed by the Department as required by this Section.

1 Within 10 days after January 14, 1991, participating
2 municipalities shall notify the Department in writing of their
3 intent to participate. In addition, for the initial
4 distribution, participating municipalities shall certify to
5 the Department the amounts collected by the municipality for
6 each month under its home rule occupation and service
7 occupation tax during the period July 1, 1989 through June 30,
8 1990. The allocation within 10 days after January 14, 1991,
9 shall be in an amount equal to the monthly average of these
10 amounts, excluding the 2 months of highest receipts. The
11 monthly average for the period of July 1, 1990 through June 30,
12 1991 will be determined as follows: the amounts collected by
13 the municipality under its home rule occupation and service
14 occupation tax during the period of July 1, 1990 through
15 September 30, 1990, plus amounts collected by the Department
16 and paid to such municipality through June 30, 1991, excluding
17 the 2 months of highest receipts. The monthly average for each
18 subsequent period of July 1 through June 30 shall be an amount
19 equal to the monthly distribution made to each such
20 municipality under the preceding paragraph during this period,
21 excluding the 2 months of highest receipts. The distribution
22 made in November 1991 and each year thereafter under this
23 paragraph and the preceding paragraph shall be reduced by the
24 amount allocated and disbursed under this paragraph in the
25 preceding period of July 1 through June 30. The Department
26 shall prepare and certify to the Comptroller for disbursement

1 the allocations made in accordance with this paragraph.

2 For the purpose of determining the local governmental unit
3 whose tax is applicable, a retail sale by a producer of coal or
4 other mineral mined in Illinois is a sale at retail at the
5 place where the coal or other mineral mined in Illinois is
6 extracted from the earth. This paragraph does not apply to coal
7 or other mineral when it is delivered or shipped by the seller
8 to the purchaser at a point outside Illinois so that the sale
9 is exempt under the United States Constitution as a sale in
10 interstate or foreign commerce.

11 Nothing in this Section shall be construed to authorize a
12 municipality to impose a tax upon the privilege of engaging in
13 any business which under the Constitution of the United States
14 may not be made the subject of taxation by this State.

15 An ordinance or resolution imposing or discontinuing a tax
16 hereunder or effecting a change in the rate thereof shall be
17 adopted and a certified copy thereof filed with the Department
18 on or before the first day of June, whereupon the Department
19 shall proceed to administer and enforce this Section as of the
20 first day of September next following the adoption and filing.
21 Beginning January 1, 1992, an ordinance or resolution imposing
22 or discontinuing the tax hereunder or effecting a change in the
23 rate thereof shall be adopted and a certified copy thereof
24 filed with the Department on or before the first day of July,
25 whereupon the Department shall proceed to administer and
26 enforce this Section as of the first day of October next

1 following such adoption and filing. Beginning January 1, 1993,
2 an ordinance or resolution imposing or discontinuing the tax
3 hereunder or effecting a change in the rate thereof shall be
4 adopted and a certified copy thereof filed with the Department
5 on or before the first day of October, whereupon the Department
6 shall proceed to administer and enforce this Section as of the
7 first day of January next following the adoption and filing.
8 However, a municipality located in a county with a population
9 in excess of 3,000,000 that elected to become a home rule unit
10 at the general primary election in 1994 may adopt an ordinance
11 or resolution imposing the tax under this Section and file a
12 certified copy of the ordinance or resolution with the
13 Department on or before July 1, 1994. The Department shall then
14 proceed to administer and enforce this Section as of October 1,
15 1994. Beginning April 1, 1998, an ordinance or resolution
16 imposing or discontinuing the tax hereunder or effecting a
17 change in the rate thereof shall either (i) be adopted and a
18 certified copy thereof filed with the Department on or before
19 the first day of April, whereupon the Department shall proceed
20 to administer and enforce this Section as of the first day of
21 July next following the adoption and filing; or (ii) be adopted
22 and a certified copy thereof filed with the Department on or
23 before the first day of October, whereupon the Department shall
24 proceed to administer and enforce this Section as of the first
25 day of January next following the adoption and filing.

26 When certifying the amount of a monthly disbursement to a

1 municipality under this Section, the Department shall increase
2 or decrease the amount by an amount necessary to offset any
3 misallocation of previous disbursements. The offset amount
4 shall be the amount erroneously disbursed within the previous 6
5 months from the time a misallocation is discovered.

6 Any unobligated balance remaining in the Municipal
7 Retailers' Occupation Tax Fund on December 31, 1989, which fund
8 was abolished by Public Act 85-1135, and all receipts of
9 municipal tax as a result of audits of liability periods prior
10 to January 1, 1990, shall be paid into the Local Government Tax
11 Fund for distribution as provided by this Section prior to the
12 enactment of Public Act 85-1135. All receipts of municipal tax
13 as a result of an assessment not arising from an audit, for
14 liability periods prior to January 1, 1990, shall be paid into
15 the Local Government Tax Fund for distribution before July 1,
16 1990, as provided by this Section prior to the enactment of
17 Public Act 85-1135; and on and after July 1, 1990, all such
18 receipts shall be distributed as provided in Section 6z-18 of
19 the State Finance Act.

20 As used in this Section, "municipal" and "municipality"
21 means a city, village or incorporated town, including an
22 incorporated town that has superseded a civil township.

23 This Section shall be known and may be cited as the Home
24 Rule Municipal Retailers' Occupation Tax Act.

25 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

1 (65 ILCS 5/8-11-1.1) (from Ch. 24, par. 8-11-1.1)

2 Sec. 8-11-1.1. Non-home rule municipalities; imposition of
3 taxes.

4 (a) The corporate authorities of a non-home rule
5 municipality may, upon approval of the electors of the
6 municipality pursuant to subsection (b) of this Section, impose
7 by ordinance or resolution the tax authorized in Sections
8 8-11-1.3, 8-11-1.4 and 8-11-1.5 of this Act.

9 (b) The corporate authorities of the municipality may by
10 ordinance or resolution call for the submission to the electors
11 of the municipality the question of whether the municipality
12 shall impose such tax. Such question shall be certified by the
13 municipal clerk to the election authority in accordance with
14 Section 28-5 of the Election Code and shall be in a form in
15 accordance with Section 16-7 of the Election Code.

16 The proposition for the imposition of the non-home rule
17 municipal retailers' occupation tax and non-home rule
18 municipal service occupation tax shall be in substantially the
19 following form:

20 "Shall (insert name of municipality) impose a Non-Home
21 Rule Municipal Retailers' Occupation Tax and Non-Home Rule
22 Municipal Service Occupation Tax at the rate of (insert
23 rate) to be used by the municipality (choose one: [for
24 expenditure on public infrastructure] [for property tax
25 relief] [for expenditure on public infrastructure and for
26 property tax relief]) as provided in Sections 8-11-1.1,

1 8-11-1.2, 8-11-1.3, and 8-11-1.4 of the Illinois Municipal
2 Code?"

3 The votes shall be recorded as "Yes" or "No".

4 If, in addition to the non-home rule municipal retailers'
5 occupation tax and non-home rule municipal service occupation
6 tax, a municipality opts to impose a non-home rule municipal
7 use tax on titled or registered vehicles as provided in Section
8 8-11-1.5, which tax must be administered and collected by the
9 municipality itself, the proposition above shall also include a
10 reference to the Non-Home Rule Municipal Use Tax and a
11 reference to Section 8-11-1.5 of the Illinois Municipal Code.

12 If a majority of the electors in the municipality voting
13 upon the question vote in the affirmative, such tax shall be
14 imposed.

15 An ordinance or resolution imposing the tax of not more
16 than 1% hereunder or discontinuing the same shall be adopted
17 and a certified copy thereof, together with a certification
18 that the ordinance or resolution received referendum approval
19 in the case of the imposition of such tax, filed with the
20 Department of Revenue, on or before the first day of June,
21 whereupon the Department shall proceed to administer and
22 enforce the additional tax or to discontinue the tax, as the
23 case may be, as of the first day of September next following
24 such adoption and filing. Beginning January 1, 1992, an
25 ordinance or resolution imposing or discontinuing the tax
26 hereunder shall be adopted and a certified copy thereof filed

1 with the Department on or before the first day of July,
2 whereupon the Department shall proceed to administer and
3 enforce this Section as of the first day of October next
4 following such adoption and filing. Beginning January 1, 1993,
5 an ordinance or resolution imposing or discontinuing the tax
6 hereunder shall be adopted and a certified copy thereof filed
7 with the Department on or before the first day of October,
8 whereupon the Department shall proceed to administer and
9 enforce this Section as of the first day of January next
10 following such adoption and filing. Beginning October 1, 2002,
11 an ordinance or resolution imposing or discontinuing the tax
12 under this Section or effecting a change in the rate of tax
13 must either (i) be adopted and a certified copy of the
14 ordinance or resolution filed with the Department on or before
15 the first day of April, whereupon the Department shall proceed
16 to administer and enforce this Section as of the first day of
17 July next following the adoption and filing; or (ii) be adopted
18 and a certified copy of the ordinance or resolution filed with
19 the Department on or before the first day of October, whereupon
20 the Department shall proceed to administer and enforce this
21 Section as of the first day of January next following the
22 adoption and filing.

23 Notwithstanding any provision in this Section to the
24 contrary, if, in a non-home rule municipality with more than
25 150,000 but fewer than 200,000 inhabitants, as determined by
26 the last preceding federal decennial census, an ordinance or

1 resolution under this Section imposes or discontinues a tax or
2 changes the tax rate as of July 1, 2007, then that ordinance or
3 resolution, together with a certification that the ordinance or
4 resolution received referendum approval in the case of the
5 imposition of the tax, must be adopted and a certified copy of
6 that ordinance or resolution must be filed with the Department
7 on or before May 15, 2007, whereupon the Department shall
8 proceed to administer and enforce this Section as of July 1,
9 2007.

10 A non-home rule municipality may file a certified copy of
11 an ordinance or resolution, with a certification that the
12 ordinance or resolution received referendum approval in the
13 case of the imposition of the tax, with the Department of
14 Revenue, as required under this Section, only after October 2,
15 2000.

16 The tax authorized by this Section may not be more than 1%
17 and may be imposed only in 1/4% increments.

18 (Source: P.A. 94-679, eff. 1-1-06; 95-8, eff. 6-29-07.)

19 (65 ILCS 5/8-11-1.3) (from Ch. 24, par. 8-11-1.3)

20 Sec. 8-11-1.3. Non-Home Rule Municipal Retailers'
21 Occupation Tax Act. The corporate authorities of a non-home
22 rule municipality may impose a tax upon all persons engaged in
23 the business of selling tangible personal property, other than
24 on an item of tangible personal property which is titled and
25 registered by an agency of this State's Government, at retail

1 in the municipality for expenditure on public infrastructure or
2 for property tax relief or both as defined in Section 8-11-1.2
3 if approved by referendum as provided in Section 8-11-1.1, of
4 the gross receipts from such sales made in the course of such
5 business. The tax imposed may not be more than 1% and may be
6 imposed only in 1/4% increments. The tax may not be imposed on
7 the sale of food for human consumption that is to be consumed
8 off the premises where it is sold (other than alcoholic
9 beverages, soft drinks, and food that has been prepared for
10 immediate consumption) and prescription and nonprescription
11 medicines, drugs, medical appliances, modifications to a motor
12 vehicle for the purpose of rendering it usable by a disabled
13 person, and insulin, urine testing materials, syringes, and
14 needles used by diabetics. The tax imposed by a municipality
15 pursuant to this Section and all civil penalties that may be
16 assessed as an incident thereof shall be collected and enforced
17 by the State Department of Revenue. The certificate of
18 registration which is issued by the Department to a retailer
19 under the Retailers' Occupation Tax Act shall permit such
20 retailer to engage in a business which is taxable under any
21 ordinance or resolution enacted pursuant to this Section
22 without registering separately with the Department under such
23 ordinance or resolution or under this Section. The Department
24 shall have full power to administer and enforce this Section;
25 to collect all taxes and penalties due hereunder; to dispose of
26 taxes and penalties so collected in the manner hereinafter

1 provided, and to determine all rights to credit memoranda,
2 arising on account of the erroneous payment of tax or penalty
3 hereunder. In the administration of, and compliance with, this
4 Section, the Department and persons who are subject to this
5 Section shall have the same rights, remedies, privileges,
6 immunities, powers and duties, and be subject to the same
7 conditions, restrictions, limitations, penalties and
8 definitions of terms, and employ the same modes of procedure,
9 as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e, 1f, 1i, 1j,
10 2 through 2-65 (in respect to all provisions therein other than
11 the State rate of tax), 2c, 3 (except as to the disposition of
12 taxes and penalties collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f,
13 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and
14 13 of the Retailers' Occupation Tax Act and Section 3-7 of the
15 Uniform Penalty and Interest Act as fully as if those
16 provisions were set forth herein.

17 No municipality may impose a tax under this Section unless
18 the municipality also imposes a tax at the same rate under
19 Section 8-11-1.4 of this Code.

20 Persons subject to any tax imposed pursuant to the
21 authority granted in this Section may reimburse themselves for
22 their seller's tax liability hereunder by separately stating
23 such tax as an additional charge, which charge may be stated in
24 combination, in a single amount, with State tax which sellers
25 are required to collect under the Use Tax Act, pursuant to such
26 bracket schedules as the Department may prescribe.

1 Whenever the Department determines that a refund should be
2 made under this Section to a claimant instead of issuing a
3 credit memorandum, the Department shall notify the State
4 Comptroller, who shall cause the order to be drawn for the
5 amount specified, and to the person named, in such notification
6 from the Department. Such refund shall be paid by the State
7 Treasurer out of the non-home rule municipal retailers'
8 occupation tax fund.

9 The Department shall forthwith pay over to the State
10 Treasurer, ex officio, as trustee, all taxes and penalties
11 collected hereunder. On or before the 25th day of each calendar
12 month, the Department shall prepare and certify to the
13 Comptroller the disbursement of stated sums of money to named
14 municipalities, the municipalities to be those from which
15 retailers have paid taxes or penalties hereunder to the
16 Department during the second preceding calendar month. The
17 amount to be paid to each municipality shall be the amount (not
18 including credit memoranda) collected hereunder during the
19 second preceding calendar month by the Department plus an
20 amount the Department determines is necessary to offset any
21 amounts which were erroneously paid to a different taxing body,
22 and not including an amount equal to the amount of refunds made
23 during the second preceding calendar month by the Department on
24 behalf of such municipality, and not including any amount which
25 the Department determines is necessary to offset any amounts
26 which were payable to a different taxing body but were

1 erroneously paid to the municipality. Within 10 days after
2 receipt, by the Comptroller, of the disbursement certification
3 to the municipalities, provided for in this Section to be given
4 to the Comptroller by the Department, the Comptroller shall
5 cause the orders to be drawn for the respective amounts in
6 accordance with the directions contained in such
7 certification.

8 For the purpose of determining the local governmental unit
9 whose tax is applicable, a retail sale, by a producer of coal
10 or other mineral mined in Illinois, is a sale at retail at the
11 place where the coal or other mineral mined in Illinois is
12 extracted from the earth. This paragraph does not apply to coal
13 or other mineral when it is delivered or shipped by the seller
14 to the purchaser at a point outside Illinois so that the sale
15 is exempt under the Federal Constitution as a sale in
16 interstate or foreign commerce.

17 Nothing in this Section shall be construed to authorize a
18 municipality to impose a tax upon the privilege of engaging in
19 any business which under the constitution of the United States
20 may not be made the subject of taxation by this State.

21 When certifying the amount of a monthly disbursement to a
22 municipality under this Section, the Department shall increase
23 or decrease such amount by an amount necessary to offset any
24 misallocation of previous disbursements. The offset amount
25 shall be the amount erroneously disbursed within the previous 6
26 months from the time a misallocation is discovered.

1 The Department of Revenue shall implement this amendatory
2 Act of the 91st General Assembly so as to collect the tax on
3 and after January 1, 2002.

4 As used in this Section, "municipal" and "municipality"
5 means a city, village or incorporated town, including an
6 incorporated town which has superseded a civil township.

7 This Section shall be known and may be cited as the
8 "Non-Home Rule Municipal Retailers' Occupation Tax Act".

9 (Source: P.A. 94-679, eff. 1-1-06.)

10 (65 ILCS 5/8-11-1.4) (from Ch. 24, par. 8-11-1.4)

11 Sec. 8-11-1.4. Non-Home Rule Municipal Service Occupation
12 Tax Act. The corporate authorities of a non-home rule
13 municipality may impose a tax upon all persons engaged, in such
14 municipality, in the business of making sales of service for
15 expenditure on public infrastructure or for property tax relief
16 or both as defined in Section 8-11-1.2 if approved by
17 referendum as provided in Section 8-11-1.1, of the selling
18 price of all tangible personal property transferred by such
19 servicemen either in the form of tangible personal property or
20 in the form of real estate as an incident to a sale of service.
21 The tax imposed may not be more than 1% and may be imposed only
22 in 1/4% increments. The tax may not be imposed on the sale of
23 food for human consumption that is to be consumed off the
24 premises where it is sold (other than alcoholic beverages, soft
25 drinks, and food that has been prepared for immediate

1 consumption) and prescription and nonprescription medicines,
2 drugs, medical appliances, modifications to a motor vehicle for
3 the purpose of rendering it usable by a disabled person, and
4 insulin, urine testing materials, syringes, and needles used by
5 diabetics. The tax imposed by a municipality pursuant to this
6 Section and all civil penalties that may be assessed as an
7 incident thereof shall be collected and enforced by the State
8 Department of Revenue. The certificate of registration which is
9 issued by the Department to a retailer under the Retailers'
10 Occupation Tax Act or under the Service Occupation Tax Act
11 shall permit such registrant to engage in a business which is
12 taxable under any ordinance or resolution enacted pursuant to
13 this Section without registering separately with the
14 Department under such ordinance or resolution or under this
15 Section. The Department shall have full power to administer and
16 enforce this Section; to collect all taxes and penalties due
17 hereunder; to dispose of taxes and penalties so collected in
18 the manner hereinafter provided, and to determine all rights to
19 credit memoranda arising on account of the erroneous payment of
20 tax or penalty hereunder. In the administration of, and
21 compliance with, this Section the Department and persons who
22 are subject to this Section shall have the same rights,
23 remedies, privileges, immunities, powers and duties, and be
24 subject to the same conditions, restrictions, limitations,
25 penalties and definitions of terms, and employ the same modes
26 of procedure, as are prescribed in Sections 1a-1, 2, 2a, 3

1 through 3-50 (in respect to all provisions therein other than
2 the State rate of tax), 4 (except that the reference to the
3 State shall be to the taxing municipality), 5, 7, 8 (except
4 that the jurisdiction to which the tax shall be a debt to the
5 extent indicated in that Section 8 shall be the taxing
6 municipality), 9 (except as to the disposition of taxes and
7 penalties collected, and except that the returned merchandise
8 credit for this municipal tax may not be taken against any
9 State tax), 10, 11, 12 (except the reference therein to Section
10 2b of the Retailers' Occupation Tax Act), 13 (except that any
11 reference to the State shall mean the taxing municipality), the
12 first paragraph of Section 15, 16, 17, 18, 19 and 20 of the
13 Service Occupation Tax Act and Section 3-7 of the Uniform
14 Penalty and Interest Act, as fully as if those provisions were
15 set forth herein.

16 No municipality may impose a tax under this Section unless
17 the municipality also imposes a tax at the same rate under
18 Section 8-11-1.3 of this Code.

19 Persons subject to any tax imposed pursuant to the
20 authority granted in this Section may reimburse themselves for
21 their serviceman's tax liability hereunder by separately
22 stating such tax as an additional charge, which charge may be
23 stated in combination, in a single amount, with State tax which
24 servicemen are authorized to collect under the Service Use Tax
25 Act, pursuant to such bracket schedules as the Department may
26 prescribe.

1 Whenever the Department determines that a refund should be
2 made under this Section to a claimant instead of issuing credit
3 memorandum, the Department shall notify the State Comptroller,
4 who shall cause the order to be drawn for the amount specified,
5 and to the person named, in such notification from the
6 Department. Such refund shall be paid by the State Treasurer
7 out of the municipal retailers' occupation tax fund.

8 The Department shall forthwith pay over to the State
9 Treasurer, ex officio, as trustee, all taxes and penalties
10 collected hereunder. On or before the 25th day of each calendar
11 month, the Department shall prepare and certify to the
12 Comptroller the disbursement of stated sums of money to named
13 municipalities, the municipalities to be those from which
14 suppliers and servicemen have paid taxes or penalties hereunder
15 to the Department during the second preceding calendar month.
16 The amount to be paid to each municipality shall be the amount
17 (not including credit memoranda) collected hereunder during
18 the second preceding calendar month by the Department, and not
19 including an amount equal to the amount of refunds made during
20 the second preceding calendar month by the Department on behalf
21 of such municipality. Within 10 days after receipt, by the
22 Comptroller, of the disbursement certification to the
23 municipalities and the General Revenue Fund, provided for in
24 this Section to be given to the Comptroller by the Department,
25 the Comptroller shall cause the orders to be drawn for the
26 respective amounts in accordance with the directions contained

1 in such certification.

2 The Department of Revenue shall implement this amendatory
3 Act of the 91st General Assembly so as to collect the tax on
4 and after January 1, 2002.

5 Nothing in this Section shall be construed to authorize a
6 municipality to impose a tax upon the privilege of engaging in
7 any business which under the constitution of the United States
8 may not be made the subject of taxation by this State.

9 As used in this Section, "municipal" or "municipality"
10 means or refers to a city, village or incorporated town,
11 including an incorporated town which has superseded a civil
12 township.

13 This Section shall be known and may be cited as the
14 "Non-Home Rule Municipal Service Occupation Tax Act".

15 (Source: P.A. 94-679, eff. 1-1-06.)

16 (65 ILCS 5/8-11-5) (from Ch. 24, par. 8-11-5)

17 Sec. 8-11-5. Home Rule Municipal Service Occupation Tax
18 Act. The corporate authorities of a home rule municipality may
19 impose a tax upon all persons engaged, in such municipality, in
20 the business of making sales of service at the same rate of tax
21 imposed pursuant to Section 8-11-1, of the selling price of all
22 tangible personal property transferred by such servicemen
23 either in the form of tangible personal property or in the form
24 of real estate as an incident to a sale of service. If imposed,
25 such tax shall only be imposed in 1/4% increments. On and after

1 September 1, 1991, this additional tax may not be imposed on
2 the sales of food for human consumption which is to be consumed
3 off the premises where it is sold (other than alcoholic
4 beverages, soft drinks and food which has been prepared for
5 immediate consumption) and prescription and nonprescription
6 medicines, drugs, medical appliances, modifications to a motor
7 vehicle for the purpose of rendering it usable by a disabled
8 person, and insulin, urine testing materials, syringes and
9 needles used by diabetics. The tax imposed by a home rule
10 municipality pursuant to this Section and all civil penalties
11 that may be assessed as an incident thereof shall be collected
12 and enforced by the State Department of Revenue. The
13 certificate of registration which is issued by the Department
14 to a retailer under the Retailers' Occupation Tax Act or under
15 the Service Occupation Tax Act shall permit such registrant to
16 engage in a business which is taxable under any ordinance or
17 resolution enacted pursuant to this Section without
18 registering separately with the Department under such
19 ordinance or resolution or under this Section. The Department
20 shall have full power to administer and enforce this Section;
21 to collect all taxes and penalties due hereunder; to dispose of
22 taxes and penalties so collected in the manner hereinafter
23 provided, and to determine all rights to credit memoranda
24 arising on account of the erroneous payment of tax or penalty
25 hereunder. In the administration of, and compliance with, this
26 Section the Department and persons who are subject to this

1 Section shall have the same rights, remedies, privileges,
2 immunities, powers and duties, and be subject to the same
3 conditions, restrictions, limitations, penalties and
4 definitions of terms, and employ the same modes of procedure,
5 as are prescribed in Sections 1a-1, 2, 2a, 3 through 3-50 (in
6 respect to all provisions therein other than the State rate of
7 tax), 4 (except that the reference to the State shall be to the
8 taxing municipality), 5, 7, 8 (except that the jurisdiction to
9 which the tax shall be a debt to the extent indicated in that
10 Section 8 shall be the taxing municipality), 9 (except as to
11 the disposition of taxes and penalties collected, and except
12 that the returned merchandise credit for this municipal tax may
13 not be taken against any State tax), 10, 11, 12 (except the
14 reference therein to Section 2b of the Retailers' Occupation
15 Tax Act), 13 (except that any reference to the State shall mean
16 the taxing municipality), the first paragraph of Section 15,
17 16, 17 (except that credit memoranda issued hereunder may not
18 be used to discharge any State tax liability), 18, 19 and 20 of
19 the Service Occupation Tax Act and Section 3-7 of the Uniform
20 Penalty and Interest Act, as fully as if those provisions were
21 set forth herein.

22 No tax may be imposed by a home rule municipality pursuant
23 to this Section unless such municipality also imposes a tax at
24 the same rate pursuant to Section 8-11-1 of this Act.

25 Persons subject to any tax imposed pursuant to the
26 authority granted in this Section may reimburse themselves for

1 their serviceman's tax liability hereunder by separately
2 stating such tax as an additional charge, which charge may be
3 stated in combination, in a single amount, with State tax which
4 servicemen are authorized to collect under the Service Use Tax
5 Act, pursuant to such bracket schedules as the Department may
6 prescribe.

7 Whenever the Department determines that a refund should be
8 made under this Section to a claimant instead of issuing credit
9 memorandum, the Department shall notify the State Comptroller,
10 who shall cause the order to be drawn for the amount specified,
11 and to the person named, in such notification from the
12 Department. Such refund shall be paid by the State Treasurer
13 out of the home rule municipal retailers' occupation tax fund.

14 The Department shall forthwith pay over to the State
15 Treasurer, ex-officio, as trustee, all taxes and penalties
16 collected hereunder. On or before the 25th day of each calendar
17 month, the Department shall prepare and certify to the
18 Comptroller the disbursement of stated sums of money to named
19 municipalities, the municipalities to be those from which
20 suppliers and servicemen have paid taxes or penalties hereunder
21 to the Department during the second preceding calendar month.
22 The amount to be paid to each municipality shall be the amount
23 (not including credit memoranda) collected hereunder during
24 the second preceding calendar month by the Department, and not
25 including an amount equal to the amount of refunds made during
26 the second preceding calendar month by the Department on behalf

1 of such municipality. Within 10 days after receipt, by the
2 Comptroller, of the disbursement certification to the
3 municipalities, provided for in this Section to be given to the
4 Comptroller by the Department, the Comptroller shall cause the
5 orders to be drawn for the respective amounts in accordance
6 with the directions contained in such certification.

7 In addition to the disbursement required by the preceding
8 paragraph and in order to mitigate delays caused by
9 distribution procedures, an allocation shall, if requested, be
10 made within 10 days after January 14, 1991, and in November of
11 1991 and each year thereafter, to each municipality that
12 received more than \$500,000 during the preceding fiscal year,
13 (July 1 through June 30) whether collected by the municipality
14 or disbursed by the Department as required by this Section.
15 Within 10 days after January 14, 1991, participating
16 municipalities shall notify the Department in writing of their
17 intent to participate. In addition, for the initial
18 distribution, participating municipalities shall certify to
19 the Department the amounts collected by the municipality for
20 each month under its home rule occupation and service
21 occupation tax during the period July 1, 1989 through June 30,
22 1990. The allocation within 10 days after January 14, 1991,
23 shall be in an amount equal to the monthly average of these
24 amounts, excluding the 2 months of highest receipts. Monthly
25 average for the period of July 1, 1990 through June 30, 1991
26 will be determined as follows: the amounts collected by the

1 municipality under its home rule occupation and service
2 occupation tax during the period of July 1, 1990 through
3 September 30, 1990, plus amounts collected by the Department
4 and paid to such municipality through June 30, 1991, excluding
5 the 2 months of highest receipts. The monthly average for each
6 subsequent period of July 1 through June 30 shall be an amount
7 equal to the monthly distribution made to each such
8 municipality under the preceding paragraph during this period,
9 excluding the 2 months of highest receipts. The distribution
10 made in November 1991 and each year thereafter under this
11 paragraph and the preceding paragraph shall be reduced by the
12 amount allocated and disbursed under this paragraph in the
13 preceding period of July 1 through June 30. The Department
14 shall prepare and certify to the Comptroller for disbursement
15 the allocations made in accordance with this paragraph.

16 Nothing in this Section shall be construed to authorize a
17 municipality to impose a tax upon the privilege of engaging in
18 any business which under the constitution of the United States
19 may not be made the subject of taxation by this State.

20 An ordinance or resolution imposing or discontinuing a tax
21 hereunder or effecting a change in the rate thereof shall be
22 adopted and a certified copy thereof filed with the Department
23 on or before the first day of June, whereupon the Department
24 shall proceed to administer and enforce this Section as of the
25 first day of September next following such adoption and filing.
26 Beginning January 1, 1992, an ordinance or resolution imposing

1 or discontinuing the tax hereunder or effecting a change in the
2 rate thereof shall be adopted and a certified copy thereof
3 filed with the Department on or before the first day of July,
4 whereupon the Department shall proceed to administer and
5 enforce this Section as of the first day of October next
6 following such adoption and filing. Beginning January 1, 1993,
7 an ordinance or resolution imposing or discontinuing the tax
8 hereunder or effecting a change in the rate thereof shall be
9 adopted and a certified copy thereof filed with the Department
10 on or before the first day of October, whereupon the Department
11 shall proceed to administer and enforce this Section as of the
12 first day of January next following such adoption and filing.
13 However, a municipality located in a county with a population
14 in excess of 3,000,000 that elected to become a home rule unit
15 at the general primary election in 1994 may adopt an ordinance
16 or resolution imposing the tax under this Section and file a
17 certified copy of the ordinance or resolution with the
18 Department on or before July 1, 1994. The Department shall then
19 proceed to administer and enforce this Section as of October 1,
20 1994. Beginning April 1, 1998, an ordinance or resolution
21 imposing or discontinuing the tax hereunder or effecting a
22 change in the rate thereof shall either (i) be adopted and a
23 certified copy thereof filed with the Department on or before
24 the first day of April, whereupon the Department shall proceed
25 to administer and enforce this Section as of the first day of
26 July next following the adoption and filing; or (ii) be adopted

1 and a certified copy thereof filed with the Department on or
2 before the first day of October, whereupon the Department shall
3 proceed to administer and enforce this Section as of the first
4 day of January next following the adoption and filing.

5 Any unobligated balance remaining in the Municipal
6 Retailers' Occupation Tax Fund on December 31, 1989, which fund
7 was abolished by Public Act 85-1135, and all receipts of
8 municipal tax as a result of audits of liability periods prior
9 to January 1, 1990, shall be paid into the Local Government Tax
10 Fund, for distribution as provided by this Section prior to the
11 enactment of Public Act 85-1135. All receipts of municipal tax
12 as a result of an assessment not arising from an audit, for
13 liability periods prior to January 1, 1990, shall be paid into
14 the Local Government Tax Fund for distribution before July 1,
15 1990, as provided by this Section prior to the enactment of
16 Public Act 85-1135, and on and after July 1, 1990, all such
17 receipts shall be distributed as provided in Section 6z-18 of
18 the State Finance Act.

19 As used in this Section, "municipal" and "municipality"
20 means a city, village or incorporated town, including an
21 incorporated town which has superseded a civil township.

22 This Section shall be known and may be cited as the Home
23 Rule Municipal Service Occupation Tax Act.

24 (Source: P.A. 90-689, eff. 7-31-98; 91-51, eff. 6-30-99.)

1 Sec. 11-74.3-6. Business district revenue and obligations.

2 (a) If the corporate authorities of a municipality have
3 approved a business district development or redevelopment plan
4 and have elected to impose a tax by ordinance pursuant to
5 subsections (b), (c), or (d) of this Section, each year after
6 the date of the approval of the ordinance and until all
7 business district project costs and all municipal obligations
8 financing the business district project costs, if any, have
9 been paid in accordance with the business district development
10 or redevelopment plan, but in no event longer than 23 years
11 after the date of adoption of the ordinance approving the
12 business district development or redevelopment plan, all
13 amounts generated by the retailers' occupation tax and service
14 occupation tax shall be collected and the tax shall be enforced
15 by the Department of Revenue in the same manner as all
16 retailers' occupation taxes and service occupation taxes
17 imposed in the municipality imposing the tax and all amounts
18 generated by the hotel operators' occupation tax shall be
19 collected and the tax shall be enforced by the municipality in
20 the same manner as all hotel operators' occupation taxes
21 imposed in the municipality imposing the tax. The corporate
22 authorities of the municipality shall deposit the proceeds of
23 the taxes imposed under subsections (b), (c), and (d) into a
24 special fund held by the corporate authorities of the
25 municipality called the Business District Tax Allocation Fund
26 for the purpose of paying business district project costs and

1 obligations incurred in the payment of those costs.

2 (b) The corporate authorities of a municipality that has
3 established a business district under this Division 74.3 may,
4 by ordinance or resolution, impose a Business District
5 Retailers' Occupation Tax upon all persons engaged in the
6 business of selling tangible personal property, other than an
7 item of tangible personal property titled or registered with an
8 agency of this State's government, at retail in the business
9 district at a rate not to exceed 1% of the gross receipts from
10 the sales made in the course of such business, to be imposed
11 only in 0.25% increments. The tax may not be imposed on food
12 for human consumption that is to be consumed off the premises
13 where it is sold (other than alcoholic beverages, soft drinks,
14 and food that has been prepared for immediate consumption),
15 prescription and nonprescription medicines, drugs, medical
16 appliances, modifications to a motor vehicle for the purpose of
17 rendering it usable by a disabled person, and insulin, urine
18 testing materials, syringes, and needles used by diabetics, for
19 human use.

20 The tax imposed under this subsection and all civil
21 penalties that may be assessed as an incident thereof shall be
22 collected and enforced by the Department of Revenue. The
23 certificate of registration that is issued by the Department to
24 a retailer under the Retailers' Occupation Tax Act shall permit
25 the retailer to engage in a business that is taxable under any
26 ordinance or resolution enacted pursuant to this subsection

1 without registering separately with the Department under such
2 ordinance or resolution or under this subsection. The
3 Department of Revenue shall have full power to administer and
4 enforce this subsection; to collect all taxes and penalties due
5 under this subsection in the manner hereinafter provided; and
6 to determine all rights to credit memoranda arising on account
7 of the erroneous payment of tax or penalty under this
8 subsection. In the administration of, and compliance with, this
9 subsection, the Department and persons who are subject to this
10 subsection shall have the same rights, remedies, privileges,
11 immunities, powers and duties, and be subject to the same
12 conditions, restrictions, limitations, penalties, exclusions,
13 exemptions, and definitions of terms and employ the same modes
14 of procedure, as are prescribed in Sections 1, 1a through 1o, 2
15 through 2-65 (in respect to all provisions therein other than
16 the State rate of tax), 2c through 2h, 3 (except as to the
17 disposition of taxes and penalties collected), 4, 5, 5a, 5c,
18 5d, 5e, 5f, 5g, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11,
19 12, 13, and 14 of the Retailers' Occupation Tax Act and all
20 provisions of the Uniform Penalty and Interest Act, as fully as
21 if those provisions were set forth herein.

22 Persons subject to any tax imposed under this subsection
23 may reimburse themselves for their seller's tax liability under
24 this subsection by separately stating the tax as an additional
25 charge, which charge may be stated in combination, in a single
26 amount, with State taxes that sellers are required to collect

1 under the Use Tax Act, in accordance with such bracket
2 schedules as the Department may prescribe.

3 Whenever the Department determines that a refund should be
4 made under this subsection to a claimant instead of issuing a
5 credit memorandum, the Department shall notify the State
6 Comptroller, who shall cause the order to be drawn for the
7 amount specified and to the person named in the notification
8 from the Department. The refund shall be paid by the State
9 Treasurer out of the business district retailers' occupation
10 tax fund.

11 The Department shall immediately pay over to the State
12 Treasurer, ex officio, as trustee, all taxes, penalties, and
13 interest collected under this subsection for deposit into the
14 business district retailers' occupation tax fund. On or before
15 the 25th day of each calendar month, the Department shall
16 prepare and certify to the Comptroller the disbursement of
17 stated sums of money to named municipalities from the business
18 district retailers' occupation tax fund, the municipalities to
19 be those from which retailers have paid taxes or penalties
20 under this subsection to the Department during the second
21 preceding calendar month. The amount to be paid to each
22 municipality shall be the amount (not including credit
23 memoranda) collected under this subsection during the second
24 preceding calendar month by the Department plus an amount the
25 Department determines is necessary to offset any amounts that
26 were erroneously paid to a different taxing body, and not

1 including an amount equal to the amount of refunds made during
2 the second preceding calendar month by the Department, less 2%
3 of that amount, which shall be deposited into the Tax
4 Compliance and Administration Fund and shall be used by the
5 Department, subject to appropriation, to cover the costs of the
6 Department in administering and enforcing the provisions of
7 this subsection, on behalf of such municipality, and not
8 including any amount that the Department determines is
9 necessary to offset any amounts that were payable to a
10 different taxing body but were erroneously paid to the
11 municipality. Within 10 days after receipt by the Comptroller
12 of the disbursement certification to the municipalities
13 provided for in this subsection to be given to the Comptroller
14 by the Department, the Comptroller shall cause the orders to be
15 drawn for the respective amounts in accordance with the
16 directions contained in the certification. The proceeds of the
17 tax paid to municipalities under this subsection shall be
18 deposited into the Business District Tax Allocation Fund by the
19 municipality.

20 An ordinance or resolution imposing or discontinuing the
21 tax under this subsection or effecting a change in the rate
22 thereof shall either (i) be adopted and a certified copy
23 thereof filed with the Department on or before the first day of
24 April, whereupon the Department, if all other requirements of
25 this subsection are met, shall proceed to administer and
26 enforce this subsection as of the first day of July next

1 following the adoption and filing; or (ii) be adopted and a
2 certified copy thereof filed with the Department on or before
3 the first day of October, whereupon, if all other requirements
4 of this subsection are met, the Department shall proceed to
5 administer and enforce this subsection as of the first day of
6 January next following the adoption and filing.

7 The Department of Revenue shall not administer or enforce
8 an ordinance imposing, discontinuing, or changing the rate of
9 the tax under this subsection, until the municipality also
10 provides, in the manner prescribed by the Department, the
11 boundaries of the business district and each address in the
12 business district in such a way that the Department can
13 determine by its address whether a business is located in the
14 business district. The municipality must provide this boundary
15 and address information to the Department on or before April 1
16 for administration and enforcement of the tax under this
17 subsection by the Department beginning on the following July 1
18 and on or before October 1 for administration and enforcement
19 of the tax under this subsection by the Department beginning on
20 the following January 1. The Department of Revenue shall not
21 administer or enforce any change made to the boundaries of a
22 business district or any address change, addition, or deletion
23 until the municipality reports the boundary change or address
24 change, addition, or deletion to the Department in the manner
25 prescribed by the Department. The municipality must provide
26 this boundary change information or address change, addition,

1 or deletion to the Department on or before April 1 for
2 administration and enforcement by the Department of the change
3 beginning on the following July 1 and on or before October 1
4 for administration and enforcement by the Department of the
5 change beginning on the following January 1. The retailers in
6 the business district shall be responsible for charging the tax
7 imposed under this subsection. If a retailer is incorrectly
8 included or excluded from the list of those required to collect
9 the tax under this subsection, both the Department of Revenue
10 and the retailer shall be held harmless if they reasonably
11 relied on information provided by the municipality.

12 A municipality that imposes the tax under this subsection
13 must submit to the Department of Revenue any other information
14 as the Department may require for the administration and
15 enforcement of the tax.

16 When certifying the amount of a monthly disbursement to a
17 municipality under this subsection, the Department shall
18 increase or decrease the amount by an amount necessary to
19 offset any misallocation of previous disbursements. The offset
20 amount shall be the amount erroneously disbursed within the
21 previous 6 months from the time a misallocation is discovered.

22 Nothing in this subsection shall be construed to authorize
23 the municipality to impose a tax upon the privilege of engaging
24 in any business which under the Constitution of the United
25 States may not be made the subject of taxation by this State.

26 If a tax is imposed under this subsection (b), a tax shall

1 also be imposed under subsection (c) of this Section.

2 (c) If a tax has been imposed under subsection (b), a
3 Business District Service Occupation Tax shall also be imposed
4 upon all persons engaged, in the business district, in the
5 business of making sales of service, who, as an incident to
6 making those sales of service, transfer tangible personal
7 property within the business district, either in the form of
8 tangible personal property or in the form of real estate as an
9 incident to a sale of service. The tax shall be imposed at the
10 same rate as the tax imposed in subsection (b) and shall not
11 exceed 1% of the selling price of tangible personal property so
12 transferred within the business district, to be imposed only in
13 0.25% increments. The tax may not be imposed on food for human
14 consumption that is to be consumed off the premises where it is
15 sold (other than alcoholic beverages, soft drinks, and food
16 that has been prepared for immediate consumption),
17 prescription and nonprescription medicines, drugs, medical
18 appliances, modifications to a motor vehicle for the purpose of
19 rendering it usable by a disabled person, and insulin, urine
20 testing materials, syringes, and needles used by diabetics, for
21 human use.

22 The tax imposed under this subsection and all civil
23 penalties that may be assessed as an incident thereof shall be
24 collected and enforced by the Department of Revenue. The
25 certificate of registration which is issued by the Department
26 to a retailer under the Retailers' Occupation Tax Act or under

1 the Service Occupation Tax Act shall permit such registrant to
2 engage in a business which is taxable under any ordinance or
3 resolution enacted pursuant to this subsection without
4 registering separately with the Department under such
5 ordinance or resolution or under this subsection. The
6 Department of Revenue shall have full power to administer and
7 enforce this subsection; to collect all taxes and penalties due
8 under this subsection; to dispose of taxes and penalties so
9 collected in the manner hereinafter provided; and to determine
10 all rights to credit memoranda arising on account of the
11 erroneous payment of tax or penalty under this subsection. In
12 the administration of, and compliance with this subsection, the
13 Department and persons who are subject to this subsection shall
14 have the same rights, remedies, privileges, immunities, powers
15 and duties, and be subject to the same conditions,
16 restrictions, limitations, penalties, exclusions, exemptions,
17 and definitions of terms and employ the same modes of procedure
18 as are prescribed in Sections 2, 2a through 2d, 3 through 3-50
19 (in respect to all provisions therein other than the State rate
20 of tax), 4 (except that the reference to the State shall be to
21 the business district), 5, 7, 8 (except that the jurisdiction
22 to which the tax shall be a debt to the extent indicated in
23 that Section 8 shall be the municipality), 9 (except as to the
24 disposition of taxes and penalties collected, and except that
25 the returned merchandise credit for this tax may not be taken
26 against any State tax), 10, 11, 12 (except the reference

1 therein to Section 2b of the Retailers' Occupation Tax Act), 13
2 (except that any reference to the State shall mean the
3 municipality), the first paragraph of Section 15, and Sections
4 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and all
5 provisions of the Uniform Penalty and Interest Act, as fully as
6 if those provisions were set forth herein.

7 Persons subject to any tax imposed under the authority
8 granted in this subsection may reimburse themselves for their
9 serviceman's tax liability hereunder by separately stating the
10 tax as an additional charge, which charge may be stated in
11 combination, in a single amount, with State tax that servicemen
12 are authorized to collect under the Service Use Tax Act, in
13 accordance with such bracket schedules as the Department may
14 prescribe.

15 Whenever the Department determines that a refund should be
16 made under this subsection to a claimant instead of issuing
17 credit memorandum, the Department shall notify the State
18 Comptroller, who shall cause the order to be drawn for the
19 amount specified, and to the person named, in such notification
20 from the Department. Such refund shall be paid by the State
21 Treasurer out of the business district retailers' occupation
22 tax fund.

23 The Department shall forthwith pay over to the State
24 Treasurer, ex-officio, as trustee, all taxes, penalties, and
25 interest collected under this subsection for deposit into the
26 business district retailers' occupation tax fund. On or before

1 the 25th day of each calendar month, the Department shall
2 prepare and certify to the Comptroller the disbursement of
3 stated sums of money to named municipalities from the business
4 district retailers' occupation tax fund, the municipalities to
5 be those from which suppliers and servicemen have paid taxes or
6 penalties under this subsection to the Department during the
7 second preceding calendar month. The amount to be paid to each
8 municipality shall be the amount (not including credit
9 memoranda) collected under this subsection during the second
10 preceding calendar month by the Department, less 2% of that
11 amount, which shall be deposited into the Tax Compliance and
12 Administration Fund and shall be used by the Department,
13 subject to appropriation, to cover the costs of the Department
14 in administering and enforcing the provisions of this
15 subsection, and not including an amount equal to the amount of
16 refunds made during the second preceding calendar month by the
17 Department on behalf of such municipality. Within 10 days after
18 receipt, by the Comptroller, of the disbursement certification
19 to the municipalities, provided for in this subsection to be
20 given to the Comptroller by the Department, the Comptroller
21 shall cause the orders to be drawn for the respective amounts
22 in accordance with the directions contained in such
23 certification. The proceeds of the tax paid to municipalities
24 under this subsection shall be deposited into the Business
25 District Tax Allocation Fund by the municipality.

26 An ordinance or resolution imposing or discontinuing the

1 tax under this subsection or effecting a change in the rate
2 thereof shall either (i) be adopted and a certified copy
3 thereof filed with the Department on or before the first day of
4 April, whereupon the Department, if all other requirements of
5 this subsection are met, shall proceed to administer and
6 enforce this subsection as of the first day of July next
7 following the adoption and filing; or (ii) be adopted and a
8 certified copy thereof filed with the Department on or before
9 the first day of October, whereupon, if all other conditions of
10 this subsection are met, the Department shall proceed to
11 administer and enforce this subsection as of the first day of
12 January next following the adoption and filing.

13 The Department of Revenue shall not administer or enforce
14 an ordinance imposing, discontinuing, or changing the rate of
15 the tax under this subsection, until the municipality also
16 provides, in the manner prescribed by the Department, the
17 boundaries of the business district and each address in the
18 business district in such a way that the Department can
19 determine by its address whether a business is located in the
20 business district. The municipality must provide this boundary
21 and address information to the Department on or before April 1
22 for administration and enforcement of the tax under this
23 subsection by the Department beginning on the following July 1
24 and on or before October 1 for administration and enforcement
25 of the tax under this subsection by the Department beginning on
26 the following January 1. The Department of Revenue shall not

1 administer or enforce any change made to the boundaries of a
2 business district or any address change, addition, or deletion
3 until the municipality reports the boundary change or address
4 change, addition, or deletion to the Department in the manner
5 prescribed by the Department. The municipality must provide
6 this boundary change information or address change, addition,
7 or deletion to the Department on or before April 1 for
8 administration and enforcement by the Department of the change
9 beginning on the following July 1 and on or before October 1
10 for administration and enforcement by the Department of the
11 change beginning on the following January 1. The retailers in
12 the business district shall be responsible for charging the tax
13 imposed under this subsection. If a retailer is incorrectly
14 included or excluded from the list of those required to collect
15 the tax under this subsection, both the Department of Revenue
16 and the retailer shall be held harmless if they reasonably
17 relied on information provided by the municipality.

18 A municipality that imposes the tax under this subsection
19 must submit to the Department of Revenue any other information
20 as the Department may require for the administration and
21 enforcement of the tax.

22 Nothing in this subsection shall be construed to authorize
23 the municipality to impose a tax upon the privilege of engaging
24 in any business which under the Constitution of the United
25 States may not be made the subject of taxation by the State.

26 If a tax is imposed under this subsection (c), a tax shall

1 also be imposed under subsection (b) of this Section.

2 (d) By ordinance, a municipality that has established a
3 business district under this Division 74.3 may impose an
4 occupation tax upon all persons engaged in the business
5 district in the business of renting, leasing, or letting rooms
6 in a hotel, as defined in the Hotel Operators' Occupation Tax
7 Act, at a rate not to exceed 1% of the gross rental receipts
8 from the renting, leasing, or letting of hotel rooms within the
9 business district, to be imposed only in 0.25% increments,
10 excluding, however, from gross rental receipts the proceeds of
11 renting, leasing, or letting to permanent residents of a hotel,
12 as defined in the Hotel Operators' Occupation Tax Act, and
13 proceeds from the tax imposed under subsection (c) of Section
14 13 of the Metropolitan Pier and Exposition Authority Act.

15 The tax imposed by the municipality under this subsection
16 and all civil penalties that may be assessed as an incident to
17 that tax shall be collected and enforced by the municipality
18 imposing the tax. The municipality shall have full power to
19 administer and enforce this subsection, to collect all taxes
20 and penalties due under this subsection, to dispose of taxes
21 and penalties so collected in the manner provided in this
22 subsection, and to determine all rights to credit memoranda
23 arising on account of the erroneous payment of tax or penalty
24 under this subsection. In the administration of and compliance
25 with this subsection, the municipality and persons who are
26 subject to this subsection shall have the same rights,

1 remedies, privileges, immunities, powers, and duties, shall be
2 subject to the same conditions, restrictions, limitations,
3 penalties, and definitions of terms, and shall employ the same
4 modes of procedure as are employed with respect to a tax
5 adopted by the municipality under Section 8-3-14 of this Code.

6 Persons subject to any tax imposed under the authority
7 granted in this subsection may reimburse themselves for their
8 tax liability for that tax by separately stating that tax as an
9 additional charge, which charge may be stated in combination,
10 in a single amount, with State taxes imposed under the Hotel
11 Operators' Occupation Tax Act, and with any other tax.

12 Nothing in this subsection shall be construed to authorize
13 a municipality to impose a tax upon the privilege of engaging
14 in any business which under the Constitution of the United
15 States may not be made the subject of taxation by this State.

16 The proceeds of the tax imposed under this subsection shall
17 be deposited into the Business District Tax Allocation Fund.

18 (e) Obligations issued pursuant to subsection (14) of
19 Section 11-74.3-3 shall be retired in the manner provided in
20 the ordinance authorizing the issuance of those obligations by
21 the receipts of taxes levied as authorized in subsections (12)
22 and (13) of Section 11-74.3-3. The ordinance shall pledge all
23 of the amounts in and to be deposited in the Business District
24 Tax Allocation Fund to the payment of business district project
25 costs and obligations. Obligations issued pursuant to
26 subsection (14) of Section 11-74.3-3 may be sold at public or

1 private sale at a price determined by the corporate authorities
2 of the municipality and no referendum approval of the electors
3 shall be required as a condition to the issuance of those
4 obligations. The ordinance authorizing the obligations may
5 require that the obligations contain a recital that they are
6 issued pursuant to subsection (14) of Section 11-74.3-3 and
7 this recital shall be conclusive evidence of their validity and
8 of the regularity of their issuance. The corporate authorities
9 of the municipality may also issue its obligations to refund,
10 in whole or in part, obligations previously issued by the
11 municipality under the authority of this Code, whether at or
12 prior to maturity. All obligations issued pursuant to
13 subsection (14) of Section 11-74.3-3 shall not be regarded as
14 indebtedness of the municipality issuing the obligations for
15 the purpose of any limitation imposed by law.

16 (f) When business district costs, including, without
17 limitation, all municipal obligations financing business
18 district project costs incurred under Section 11-74.3-3 have
19 been paid, any surplus funds then remaining in the Business
20 District Tax Allocation Fund shall be distributed to the
21 municipal treasurer for deposit into the municipal general
22 corporate fund. Upon payment of all business district project
23 costs and retirement of obligations, but in no event more than
24 23 years after the date of adoption of the ordinance approving
25 the business district development or redevelopment plan, the
26 municipality shall adopt an ordinance immediately rescinding

1 the taxes imposed pursuant to subsections (12) and (13) of
2 Section 11-74.3-3.

3 (Source: P.A. 93-1053, eff. 1-1-05; 93-1089, eff. 3-7-05.)

4 (65 ILCS 5/8-11-9 rep.)

5 Section 50. The Illinois Municipal Code is amended by
6 repealing Section 8-11-9.

7 Section 55. The Metro-East Park and Recreation District Act
8 is amended by changing Section 30 as follows:

9 (70 ILCS 1605/30)

10 Sec. 30. Taxes.

11 (a) The board shall impose a tax upon all persons engaged
12 in the business of selling tangible personal property, other
13 than personal property titled or registered with an agency of
14 this State's government, at retail in the District on the gross
15 receipts from the sales made in the course of business. This
16 tax shall be imposed only at the rate of one-tenth of one per
17 cent.

18 This additional tax may not be imposed on the sales of food
19 for human consumption that is to be consumed off the premises
20 where it is sold (other than alcoholic beverages, soft drinks,
21 and food which has been prepared for immediate consumption) and
22 prescription and non-prescription medicines, drugs, medical
23 appliances, modifications to a motor vehicle for the purpose of

1 rendering it usable by a disabled person, and insulin, urine
2 testing materials, syringes, and needles used by diabetics. The
3 tax imposed by the Board under this Section and all civil
4 penalties that may be assessed as an incident of the tax shall
5 be collected and enforced by the Department of Revenue. The
6 certificate of registration that is issued by the Department to
7 a retailer under the Retailers' Occupation Tax Act shall permit
8 the retailer to engage in a business that is taxable without
9 registering separately with the Department under an ordinance
10 or resolution under this Section. The Department has full power
11 to administer and enforce this Section, to collect all taxes
12 and penalties due under this Section, to dispose of taxes and
13 penalties so collected in the manner provided in this Section,
14 and to determine all rights to credit memoranda arising on
15 account of the erroneous payment of a tax or penalty under this
16 Section. In the administration of and compliance with this
17 Section, the Department and persons who are subject to this
18 Section shall (i) have the same rights, remedies, privileges,
19 immunities, powers, and duties, (ii) be subject to the same
20 conditions, restrictions, limitations, penalties, and
21 definitions of terms, and (iii) employ the same modes of
22 procedure as are prescribed in Sections 1, 1a, 1a-1, 1d, 1e,
23 1f, 1i, 1j, 1k, 1m, 1n, 2, 2-5, 2-5.5, 2-10 (in respect to all
24 provisions contained in those Sections other than the State
25 rate of tax), 2-15 through 2-70, 2a, 2b, 2c, 3 (except
26 provisions relating to transaction returns and quarter monthly

1 payments), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l,
2 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12, and 13 of the
3 Retailers' Occupation Tax Act and the Uniform Penalty and
4 Interest Act as if those provisions were set forth in this
5 Section.

6 Persons subject to any tax imposed under the authority
7 granted in this Section may reimburse themselves for their
8 sellers' tax liability by separately stating the tax as an
9 additional charge, which charge may be stated in combination,
10 in a single amount, with State tax which sellers are required
11 to collect under the Use Tax Act, pursuant to such bracketed
12 schedules as the Department may prescribe.

13 Whenever the Department determines that a refund should be
14 made under this Section to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the order to be drawn for the
17 amount specified and to the person named in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of the State Metro-East Park and Recreation
20 District Fund.

21 (b) If a tax has been imposed under subsection (a), a
22 service occupation tax shall also be imposed at the same rate
23 upon all persons engaged, in the District, in the business of
24 making sales of service, who, as an incident to making those
25 sales of service, transfer tangible personal property within
26 the District as an incident to a sale of service. This tax may

1 not be imposed on sales of food for human consumption that is
2 to be consumed off the premises where it is sold (other than
3 alcoholic beverages, soft drinks, and food prepared for
4 immediate consumption) and prescription and non-prescription
5 medicines, drugs, medical appliances, modifications to a motor
6 vehicle for the purpose of rendering it usable by a disabled
7 person, and insulin, urine testing materials, syringes, and
8 needles used by diabetics. The tax imposed under this
9 subsection and all civil penalties that may be assessed as an
10 incident thereof shall be collected and enforced by the
11 Department of Revenue. The Department has full power to
12 administer and enforce this subsection; to collect all taxes
13 and penalties due hereunder; to dispose of taxes and penalties
14 so collected in the manner hereinafter provided; and to
15 determine all rights to credit memoranda arising on account of
16 the erroneous payment of tax or penalty hereunder. In the
17 administration of, and compliance with this subsection, the
18 Department and persons who are subject to this paragraph shall
19 (i) have the same rights, remedies, privileges, immunities,
20 powers, and duties, (ii) be subject to the same conditions,
21 restrictions, limitations, penalties, exclusions, exemptions,
22 and definitions of terms, and (iii) employ the same modes of
23 procedure as are prescribed in Sections 2 (except that the
24 reference to State in the definition of supplier maintaining a
25 place of business in this State shall mean the District), 2a,
26 2b, 2c, 3 through 3-50 (in respect to all provisions therein

1 other than the State rate of tax), 4 (except that the reference
2 to the State shall be to the District), 5, 7, 8 (except that
3 the jurisdiction to which the tax shall be a debt to the extent
4 indicated in that Section 8 shall be the District), 9 (except
5 as to the disposition of taxes and penalties collected), 10,
6 11, 12 (except the reference therein to Section 2b of the
7 Retailers' Occupation Tax Act), 13 (except that any reference
8 to the State shall mean the District), Sections 15, 16, 17, 18,
9 19 and 20 of the Service Occupation Tax Act and the Uniform
10 Penalty and Interest Act, as fully as if those provisions were
11 set forth herein.

12 Persons subject to any tax imposed under the authority
13 granted in this subsection may reimburse themselves for their
14 serviceman's tax liability by separately stating the tax as an
15 additional charge, which charge may be stated in combination,
16 in a single amount, with State tax that servicemen are
17 authorized to collect under the Service Use Tax Act, in
18 accordance with such bracket schedules as the Department may
19 prescribe.

20 Whenever the Department determines that a refund should be
21 made under this subsection to a claimant instead of issuing a
22 credit memorandum, the Department shall notify the State
23 Comptroller, who shall cause the warrant to be drawn for the
24 amount specified, and to the person named, in the notification
25 from the Department. The refund shall be paid by the State
26 Treasurer out of the State Metro-East Park and Recreation

1 District Fund.

2 Nothing in this subsection shall be construed to authorize
3 the board to impose a tax upon the privilege of engaging in any
4 business which under the Constitution of the United States may
5 not be made the subject of taxation by the State.

6 (c) The Department shall immediately pay over to the State
7 Treasurer, *ex officio*, as trustee, all taxes and penalties
8 collected under this Section to be deposited into the State
9 Metro-East Park and Recreation District Fund, which shall be an
10 unappropriated trust fund held outside of the State treasury.
11 On or before the 25th day of each calendar month, the
12 Department shall prepare and certify to the Comptroller the
13 disbursement of stated sums of money pursuant to Section 35 of
14 this Act to the District from which retailers have paid taxes
15 or penalties to the Department during the second preceding
16 calendar month. The amount to be paid to the District shall be
17 the amount (not including credit memoranda) collected under
18 this Section during the second preceding calendar month by the
19 Department plus an amount the Department determines is
20 necessary to offset any amounts that were erroneously paid to a
21 different taxing body, and not including (i) an amount equal to
22 the amount of refunds made during the second preceding calendar
23 month by the Department on behalf of the District and (ii) any
24 amount that the Department determines is necessary to offset
25 any amounts that were payable to a different taxing body but
26 were erroneously paid to the District. Within 10 days after

1 receipt by the Comptroller of the disbursement certification to
2 the District provided for in this Section to be given to the
3 Comptroller by the Department, the Comptroller shall cause the
4 orders to be drawn for the respective amounts in accordance
5 with directions contained in the certification.

6 (d) For the purpose of determining whether a tax authorized
7 under this Section is applicable, a retail sale by a producer
8 of coal or another mineral mined in Illinois is a sale at
9 retail at the place where the coal or other mineral mined in
10 Illinois is extracted from the earth. This paragraph does not
11 apply to coal or another mineral when it is delivered or
12 shipped by the seller to the purchaser at a point outside
13 Illinois so that the sale is exempt under the United States
14 Constitution as a sale in interstate or foreign commerce.

15 (e) Nothing in this Section shall be construed to authorize
16 the board to impose a tax upon the privilege of engaging in any
17 business that under the Constitution of the United States may
18 not be made the subject of taxation by this State.

19 (f) An ordinance imposing a tax under this Section or an
20 ordinance extending the imposition of a tax to an additional
21 county or counties shall be certified by the board and filed
22 with the Department of Revenue either (i) on or before the
23 first day of April, whereupon the Department shall proceed to
24 administer and enforce the tax as of the first day of July next
25 following the filing; or (ii) on or before the first day of
26 October, whereupon the Department shall proceed to administer

1 and enforce the tax as of the first day of January next
2 following the filing.

3 (g) When certifying the amount of a monthly disbursement to
4 the District under this Section, the Department shall increase
5 or decrease the amounts by an amount necessary to offset any
6 misallocation of previous disbursements. The offset amount
7 shall be the amount erroneously disbursed within the previous 6
8 months from the time a misallocation is discovered.

9 (Source: P.A. 91-103, eff. 7-13-99.)

10 Section 60. The Regional Transportation Authority Act is
11 amended by changing Section 4.03 as follows:

12 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

13 Sec. 4.03. Taxes.

14 (a) In order to carry out any of the powers or purposes of
15 the Authority, the Board may by ordinance adopted with the
16 concurrence of 12 of the then Directors, impose throughout the
17 metropolitan region any or all of the taxes provided in this
18 Section. Except as otherwise provided in this Act, taxes
19 imposed under this Section and civil penalties imposed incident
20 thereto shall be collected and enforced by the State Department
21 of Revenue. The Department shall have the power to administer
22 and enforce the taxes and to determine all rights for refunds
23 for erroneous payments of the taxes. Nothing in this amendatory
24 Act of the 95th General Assembly is intended to invalidate any

1 taxes currently imposed by the Authority. The increased vote
2 requirements to impose a tax shall only apply to actions taken
3 after the effective date of this amendatory Act of the 95th
4 General Assembly.

5 (b) The Board may impose a public transportation tax upon
6 all persons engaged in the metropolitan region in the business
7 of selling at retail motor fuel for operation of motor vehicles
8 upon public highways. The tax shall be at a rate not to exceed
9 5% of the gross receipts from the sales of motor fuel in the
10 course of the business. As used in this Act, the term "motor
11 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
12 The Board may provide for details of the tax. The provisions of
13 any tax shall conform, as closely as may be practicable, to the
14 provisions of the Municipal Retailers Occupation Tax Act,
15 including without limitation, conformity to penalties with
16 respect to the tax imposed and as to the powers of the State
17 Department of Revenue to promulgate and enforce rules and
18 regulations relating to the administration and enforcement of
19 the provisions of the tax imposed, except that reference in the
20 Act to any municipality shall refer to the Authority and the
21 tax shall be imposed only with regard to receipts from sales of
22 motor fuel in the metropolitan region, at rates as limited by
23 this Section.

24 (c) In connection with the tax imposed under paragraph (b)
25 of this Section the Board may impose a tax upon the privilege
26 of using in the metropolitan region motor fuel for the

1 operation of a motor vehicle upon public highways, the tax to
2 be at a rate not in excess of the rate of tax imposed under
3 paragraph (b) of this Section. The Board may provide for
4 details of the tax.

5 (d) The Board may impose a motor vehicle parking tax upon
6 the privilege of parking motor vehicles at off-street parking
7 facilities in the metropolitan region at which a fee is
8 charged, and may provide for reasonable classifications in and
9 exemptions to the tax, for administration and enforcement
10 thereof and for civil penalties and refunds thereunder and may
11 provide criminal penalties thereunder, the maximum penalties
12 not to exceed the maximum criminal penalties provided in the
13 Retailers' Occupation Tax Act. The Authority may collect and
14 enforce the tax itself or by contract with any unit of local
15 government. The State Department of Revenue shall have no
16 responsibility for the collection and enforcement unless the
17 Department agrees with the Authority to undertake the
18 collection and enforcement. As used in this paragraph, the term
19 "parking facility" means a parking area or structure having
20 parking spaces for more than 2 vehicles at which motor vehicles
21 are permitted to park in return for an hourly, daily, or other
22 periodic fee, whether publicly or privately owned, but does not
23 include parking spaces on a public street, the use of which is
24 regulated by parking meters.

25 (e) The Board may impose a Regional Transportation
26 Authority Retailers' Occupation Tax upon all persons engaged in

1 the business of selling tangible personal property at retail in
2 the metropolitan region. In Cook County the tax rate shall be
3 1.25% of the gross receipts from sales of food for human
4 consumption that is to be consumed off the premises where it is
5 sold (other than alcoholic beverages, soft drinks and food that
6 has been prepared for immediate consumption) and prescription
7 and nonprescription medicines, drugs, medical appliances and
8 insulin, urine testing materials, syringes and needles used by
9 diabetics, and 1% of the gross receipts from other taxable
10 sales made in the course of that business. In DuPage, Kane,
11 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%
12 of the gross receipts from all taxable sales made in the course
13 of that business. The tax imposed under this Section and all
14 civil penalties that may be assessed as an incident thereof
15 shall be collected and enforced by the State Department of
16 Revenue. The Department shall have full power to administer and
17 enforce this Section; to collect all taxes and penalties so
18 collected in the manner hereinafter provided; and to determine
19 all rights to credit memoranda arising on account of the
20 erroneous payment of tax or penalty hereunder. In the
21 administration of, and compliance with this Section, the
22 Department and persons who are subject to this Section shall
23 have the same rights, remedies, privileges, immunities, powers
24 and duties, and be subject to the same conditions,
25 restrictions, limitations, penalties, exclusions, exemptions
26 and definitions of terms, and employ the same modes of

1 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
2 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
3 therein other than the State rate of tax), 2c, 3 (except as to
4 the disposition of taxes and penalties collected), 4, 5, 5a,
5 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
6 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
7 Section 3-7 of the Uniform Penalty and Interest Act, as fully
8 as if those provisions were set forth herein.

9 Persons subject to any tax imposed under the authority
10 granted in this Section may reimburse themselves for their
11 seller's tax liability hereunder by separately stating the tax
12 as an additional charge, which charge may be stated in
13 combination in a single amount with State taxes that sellers
14 are required to collect under the Use Tax Act, under any
15 bracket schedules the Department may prescribe.

16 Whenever the Department determines that a refund should be
17 made under this Section to a claimant instead of issuing a
18 credit memorandum, the Department shall notify the State
19 Comptroller, who shall cause the warrant to be drawn for the
20 amount specified, and to the person named, in the notification
21 from the Department. The refund shall be paid by the State
22 Treasurer out of the Regional Transportation Authority tax fund
23 established under paragraph (n) of this Section.

24 If a tax is imposed under this subsection (e), a tax shall
25 also be imposed under subsections (f) and (g) of this Section.

26 For the purpose of determining whether a tax authorized

1 under this Section is applicable, a retail sale by a producer
2 of coal or other mineral mined in Illinois, is a sale at retail
3 at the place where the coal or other mineral mined in Illinois
4 is extracted from the earth. This paragraph does not apply to
5 coal or other mineral when it is delivered or shipped by the
6 seller to the purchaser at a point outside Illinois so that the
7 sale is exempt under the Federal Constitution as a sale in
8 interstate or foreign commerce.

9 No tax shall be imposed or collected under this subsection
10 on the sale of a motor vehicle in this State to a resident of
11 another state if that motor vehicle will not be titled in this
12 State.

13 Nothing in this Section shall be construed to authorize the
14 Regional Transportation Authority to impose a tax upon the
15 privilege of engaging in any business that under the
16 Constitution of the United States may not be made the subject
17 of taxation by this State.

18 (f) If a tax has been imposed under paragraph (e), a
19 Regional Transportation Authority Service Occupation Tax shall
20 also be imposed upon all persons engaged, in the metropolitan
21 region in the business of making sales of service, who as an
22 incident to making the sales of service, transfer tangible
23 personal property within the metropolitan region, either in the
24 form of tangible personal property or in the form of real
25 estate as an incident to a sale of service. In Cook County, the
26 tax rate shall be: (1) 1.25% of the serviceman's cost price of

1 food prepared for immediate consumption and transferred
2 incident to a sale of service subject to the service occupation
3 tax by an entity licensed under the Hospital Licensing Act or
4 the Nursing Home Care Act that is located in the metropolitan
5 region; (2) 1.25% of the selling price of food for human
6 consumption that is to be consumed off the premises where it is
7 sold (other than alcoholic beverages, soft drinks and food that
8 has been prepared for immediate consumption) and prescription
9 and nonprescription medicines, drugs, medical appliances and
10 insulin, urine testing materials, syringes and needles used by
11 diabetics; and (3) 1% of the selling price from other taxable
12 sales of tangible personal property transferred. In DuPage,
13 Kane, Lake, McHenry and Will Counties the rate shall be 0.75%
14 of the selling price of all tangible personal property
15 transferred.

16 The tax imposed under this paragraph and all civil
17 penalties that may be assessed as an incident thereof shall be
18 collected and enforced by the State Department of Revenue. The
19 Department shall have full power to administer and enforce this
20 paragraph; to collect all taxes and penalties due hereunder; to
21 dispose of taxes and penalties collected in the manner
22 hereinafter provided; and to determine all rights to credit
23 memoranda arising on account of the erroneous payment of tax or
24 penalty hereunder. In the administration of and compliance with
25 this paragraph, the Department and persons who are subject to
26 this paragraph shall have the same rights, remedies,

1 privileges, immunities, powers and duties, and be subject to
2 the same conditions, restrictions, limitations, penalties,
3 exclusions, exemptions and definitions of terms, and employ the
4 same modes of procedure, as are prescribed in Sections 1a-1, 2,
5 2a, 3 through 3-50 (in respect to all provisions therein other
6 than the State rate of tax), 4 (except that the reference to
7 the State shall be to the Authority), 5, 7, 8 (except that the
8 jurisdiction to which the tax shall be a debt to the extent
9 indicated in that Section 8 shall be the Authority), 9 (except
10 as to the disposition of taxes and penalties collected, and
11 except that the returned merchandise credit for this tax may
12 not be taken against any State tax), 10, 11, 12 (except the
13 reference therein to Section 2b of the Retailers' Occupation
14 Tax Act), 13 (except that any reference to the State shall mean
15 the Authority), the first paragraph of Section 15, 16, 17, 18,
16 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
17 the Uniform Penalty and Interest Act, as fully as if those
18 provisions were set forth herein.

19 Persons subject to any tax imposed under the authority
20 granted in this paragraph may reimburse themselves for their
21 serviceman's tax liability hereunder by separately stating the
22 tax as an additional charge, that charge may be stated in
23 combination in a single amount with State tax that servicemen
24 are authorized to collect under the Service Use Tax Act, under
25 any bracket schedules the Department may prescribe.

26 Whenever the Department determines that a refund should be

1 made under this paragraph to a claimant instead of issuing a
2 credit memorandum, the Department shall notify the State
3 Comptroller, who shall cause the warrant to be drawn for the
4 amount specified, and to the person named in the notification
5 from the Department. The refund shall be paid by the State
6 Treasurer out of the Regional Transportation Authority tax fund
7 established under paragraph (n) of this Section.

8 Nothing in this paragraph shall be construed to authorize
9 the Authority to impose a tax upon the privilege of engaging in
10 any business that under the Constitution of the United States
11 may not be made the subject of taxation by the State.

12 (g) If a tax has been imposed under paragraph (e), a tax
13 shall also be imposed upon the privilege of using in the
14 metropolitan region, any item of tangible personal property
15 that is purchased outside the metropolitan region at retail
16 from a retailer, and that is titled or registered with an
17 agency of this State's government. In Cook County the tax rate
18 shall be 1% of the selling price of the tangible personal
19 property, as "selling price" is defined in the Use Tax Act. In
20 DuPage, Kane, Lake, McHenry and Will counties the tax rate
21 shall be 0.75% of the selling price of the tangible personal
22 property, as "selling price" is defined in the Use Tax Act. The
23 tax shall be collected from persons whose Illinois address for
24 titling or registration purposes is given as being in the
25 metropolitan region. The tax shall be collected by the
26 Department of Revenue for the Regional Transportation

1 Authority. The tax must be paid to the State, or an exemption
2 determination must be obtained from the Department of Revenue,
3 before the title or certificate of registration for the
4 property may be issued. The tax or proof of exemption may be
5 transmitted to the Department by way of the State agency with
6 which, or the State officer with whom, the tangible personal
7 property must be titled or registered if the Department and the
8 State agency or State officer determine that this procedure
9 will expedite the processing of applications for title or
10 registration.

11 The Department shall have full power to administer and
12 enforce this paragraph; to collect all taxes, penalties and
13 interest due hereunder; to dispose of taxes, penalties and
14 interest collected in the manner hereinafter provided; and to
15 determine all rights to credit memoranda or refunds arising on
16 account of the erroneous payment of tax, penalty or interest
17 hereunder. In the administration of and compliance with this
18 paragraph, the Department and persons who are subject to this
19 paragraph shall have the same rights, remedies, privileges,
20 immunities, powers and duties, and be subject to the same
21 conditions, restrictions, limitations, penalties, exclusions,
22 exemptions and definitions of terms and employ the same modes
23 of procedure, as are prescribed in Sections 2 (except the
24 definition of "retailer maintaining a place of business in this
25 State"), 3 through 3-80 (except provisions pertaining to the
26 State rate of tax, and except provisions concerning collection

1 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
2 19 (except the portions pertaining to claims by retailers and
3 except the last paragraph concerning refunds), 20, 21 and 22 of
4 the Use Tax Act, and are not inconsistent with this paragraph,
5 as fully as if those provisions were set forth herein.

6 Whenever the Department determines that a refund should be
7 made under this paragraph to a claimant instead of issuing a
8 credit memorandum, the Department shall notify the State
9 Comptroller, who shall cause the order to be drawn for the
10 amount specified, and to the person named in the notification
11 from the Department. The refund shall be paid by the State
12 Treasurer out of the Regional Transportation Authority tax fund
13 established under paragraph (n) of this Section.

14 (h) (Blank). ~~The Authority may impose a replacement vehicle~~
15 ~~tax of \$50 on any passenger car as defined in Section 1-157 of~~
16 ~~the Illinois Vehicle Code purchased within the metropolitan~~
17 ~~region by or on behalf of an insurance company to replace a~~
18 ~~passenger car of an insured person in settlement of a total~~
19 ~~loss claim. The tax imposed may not become effective before the~~
20 ~~first day of the month following the passage of the ordinance~~
21 ~~imposing the tax and receipt of a certified copy of the~~
22 ~~ordinance by the Department of Revenue. The Department of~~
23 ~~Revenue shall collect the tax for the Authority in accordance~~
24 ~~with Sections 3-2002 and 3-2003 of the Illinois Vehicle Code.~~

25 ~~The Department shall immediately pay over to the State~~
26 ~~Treasurer, ex officio, as trustee, all taxes collected~~

1 ~~hereunder. On or before the 25th day of each calendar month,~~
2 ~~the Department shall prepare and certify to the Comptroller the~~
3 ~~disbursement of stated sums of money to the Authority. The~~
4 ~~amount to be paid to the Authority shall be the amount~~
5 ~~collected hereunder during the second preceding calendar month~~
6 ~~by the Department, less any amount determined by the Department~~
7 ~~to be necessary for the payment of refunds. Within 10 days~~
8 ~~after receipt by the Comptroller of the disbursement~~
9 ~~certification to the Authority provided for in this Section to~~
10 ~~be given to the Comptroller by the Department, the Comptroller~~
11 ~~shall cause the orders to be drawn for that amount in~~
12 ~~accordance with the directions contained in the certification.~~

13 (i) The Board may not impose any other taxes except as it
14 may from time to time be authorized by law to impose.

15 (j) A certificate of registration issued by the State
16 Department of Revenue to a retailer under the Retailers'
17 Occupation Tax Act or under the Service Occupation Tax Act
18 shall permit the registrant to engage in a business that is
19 taxed under the tax imposed under paragraphs (b), (e), (f) or
20 (g) of this Section and no additional registration shall be
21 required under the tax. A certificate issued under the Use Tax
22 Act or the Service Use Tax Act shall be applicable with regard
23 to any tax imposed under paragraph (c) of this Section.

24 (k) The provisions of any tax imposed under paragraph (c)
25 of this Section shall conform as closely as may be practicable
26 to the provisions of the Use Tax Act, including without

1 limitation conformity as to penalties with respect to the tax
2 imposed and as to the powers of the State Department of Revenue
3 to promulgate and enforce rules and regulations relating to the
4 administration and enforcement of the provisions of the tax
5 imposed. The taxes shall be imposed only on use within the
6 metropolitan region and at rates as provided in the paragraph.

7 (l) The Board in imposing any tax as provided in paragraphs
8 (b) and (c) of this Section, shall, after seeking the advice of
9 the State Department of Revenue, provide means for retailers,
10 users or purchasers of motor fuel for purposes other than those
11 with regard to which the taxes may be imposed as provided in
12 those paragraphs to receive refunds of taxes improperly paid,
13 which provisions may be at variance with the refund provisions
14 as applicable under the Municipal Retailers Occupation Tax Act.
15 The State Department of Revenue may provide for certificates of
16 registration for users or purchasers of motor fuel for purposes
17 other than those with regard to which taxes may be imposed as
18 provided in paragraphs (b) and (c) of this Section to
19 facilitate the reporting and nontaxability of the exempt sales
20 or uses.

21 (m) Any ordinance imposing or discontinuing any tax under
22 this Section shall be adopted and a certified copy thereof
23 filed with the Department on or before June 1, whereupon the
24 Department of Revenue shall proceed to administer and enforce
25 this Section on behalf of the Regional Transportation Authority
26 as of September 1 next following such adoption and filing.

1 Beginning January 1, 1992, an ordinance or resolution imposing
2 or discontinuing the tax hereunder shall be adopted and a
3 certified copy thereof filed with the Department on or before
4 the first day of July, whereupon the Department shall proceed
5 to administer and enforce this Section as of the first day of
6 October next following such adoption and filing. Beginning
7 January 1, 1993, an ordinance or resolution imposing,
8 increasing, decreasing, or discontinuing the tax hereunder
9 shall be adopted and a certified copy thereof filed with the
10 Department, whereupon the Department shall proceed to
11 administer and enforce this Section as of the first day of the
12 first month to occur not less than 60 days following such
13 adoption and filing. Any ordinance or resolution of the
14 Authority imposing a tax under this Section and in effect on
15 August 1, 2007 shall remain in full force and effect and shall
16 be administered by the Department of Revenue under the terms
17 and conditions and rates of tax established by such ordinance
18 or resolution until the Department begins administering and
19 enforcing an increased tax under this Section as authorized by
20 this amendatory Act of the 95th General Assembly. The tax rates
21 authorized by this amendatory Act of the 95th General Assembly
22 are effective only if imposed by ordinance of the Authority.

23 (n) The State Department of Revenue shall, upon collecting
24 any taxes as provided in this Section, pay the taxes over to
25 the State Treasurer as trustee for the Authority. The taxes
26 shall be held in a trust fund outside the State Treasury. On or

1 before the 25th day of each calendar month, the State
2 Department of Revenue shall prepare and certify to the
3 Comptroller of the State of Illinois and to the Authority (i)
4 the amount of taxes collected in each County other than Cook
5 County in the metropolitan region, (ii) the amount of taxes
6 collected within the City of Chicago, and (iii) the amount
7 collected in that portion of Cook County outside of Chicago,
8 each amount less the amount necessary for the payment of
9 refunds to taxpayers located in those areas described in items
10 (i), (ii), and (iii). Within 10 days after receipt by the
11 Comptroller of the certification of the amounts, the
12 Comptroller shall cause an order to be drawn for the payment of
13 two-thirds of the amounts certified in item (i) of this
14 subsection to the Authority and one-third of the amounts
15 certified in item (i) of this subsection to the respective
16 counties other than Cook County and the amount certified in
17 items (ii) and (iii) of this subsection to the Authority.

18 In addition to the disbursement required by the preceding
19 paragraph, an allocation shall be made in July 1991 and each
20 year thereafter to the Regional Transportation Authority. The
21 allocation shall be made in an amount equal to the average
22 monthly distribution during the preceding calendar year
23 (excluding the 2 months of lowest receipts) and the allocation
24 shall include the amount of average monthly distribution from
25 the Regional Transportation Authority Occupation and Use Tax
26 Replacement Fund. The distribution made in July 1992 and each

1 year thereafter under this paragraph and the preceding
2 paragraph shall be reduced by the amount allocated and
3 disbursed under this paragraph in the preceding calendar year.
4 The Department of Revenue shall prepare and certify to the
5 Comptroller for disbursement the allocations made in
6 accordance with this paragraph.

7 (o) Failure to adopt a budget ordinance or otherwise to
8 comply with Section 4.01 of this Act or to adopt a Five-year
9 Capital Program or otherwise to comply with paragraph (b) of
10 Section 2.01 of this Act shall not affect the validity of any
11 tax imposed by the Authority otherwise in conformity with law.

12 (p) At no time shall a public transportation tax or motor
13 vehicle parking tax authorized under paragraphs (b), (c) and
14 (d) of this Section be in effect at the same time as any
15 retailers' occupation, use or service occupation tax
16 authorized under paragraphs (e), (f) and (g) of this Section is
17 in effect.

18 Any taxes imposed under the authority provided in
19 paragraphs (b), (c) and (d) shall remain in effect only until
20 the time as any tax authorized by paragraphs (e), (f) or (g) of
21 this Section are imposed and becomes effective. Once any tax
22 authorized by paragraphs (e), (f) or (g) is imposed the Board
23 may not reimpose taxes as authorized in paragraphs (b), (c) and
24 (d) of the Section unless any tax authorized by paragraphs (e),
25 (f) or (g) of this Section becomes ineffective by means other
26 than an ordinance of the Board.

1 (q) Any existing rights, remedies and obligations
2 (including enforcement by the Regional Transportation
3 Authority) arising under any tax imposed under paragraphs (b),
4 (c) or (d) of this Section shall not be affected by the
5 imposition of a tax under paragraphs (e), (f) or (g) of this
6 Section.

7 (Source: P.A. 95-708, eff. 1-18-08.)

8 Section 65. The Water Commission Act of 1985 is amended by
9 changing Section 4 as follows:

10 (70 ILCS 3720/4) (from Ch. 111 2/3, par. 254)

11 Sec. 4. (a) The board of commissioners of any county water
12 commission may, by ordinance, impose throughout the territory
13 of the commission any or all of the taxes provided in this
14 Section for its corporate purposes. However, no county water
15 commission may impose any such tax unless the commission
16 certifies the proposition of imposing the tax to the proper
17 election officials, who shall submit the proposition to the
18 voters residing in the territory at an election in accordance
19 with the general election law, and the proposition has been
20 approved by a majority of those voting on the proposition.

21 The proposition shall be in the form provided in Section 5
22 or shall be substantially in the following form:

23 -----

24 Shall the (insert corporate

1 name of county water commission) YES
 2 impose (state type of tax or -----
 3 taxes to be imposed) at the NO
 4 rate of 1/4%?

5 -----

6 Taxes imposed under this Section and civil penalties
 7 imposed incident thereto shall be collected and enforced by the
 8 State Department of Revenue. The Department shall have the
 9 power to administer and enforce the taxes and to determine all
 10 rights for refunds for erroneous payments of the taxes.

11 (b) The board of commissioners may impose a County Water
 12 Commission Retailers' Occupation Tax upon all persons engaged
 13 in the business of selling tangible personal property at retail
 14 in the territory of the commission at a rate of 1/4% of the
 15 gross receipts from the sales made in the course of such
 16 business within the territory. The tax imposed under this
 17 paragraph and all civil penalties that may be assessed as an
 18 incident thereof shall be collected and enforced by the State
 19 Department of Revenue. The Department shall have full power to
 20 administer and enforce this paragraph; to collect all taxes and
 21 penalties due hereunder; to dispose of taxes and penalties so
 22 collected in the manner hereinafter provided; and to determine
 23 all rights to credit memoranda arising on account of the
 24 erroneous payment of tax or penalty hereunder. In the
 25 administration of, and compliance with, this paragraph, the
 26 Department and persons who are subject to this paragraph shall

1 have the same rights, remedies, privileges, immunities, powers
2 and duties, and be subject to the same conditions,
3 restrictions, limitations, penalties, exclusions, exemptions
4 and definitions of terms, and employ the same modes of
5 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
6 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
7 therein other than the State rate of tax except that food for
8 human consumption that is to be consumed off the premises where
9 it is sold (other than alcoholic beverages, soft drinks, and
10 food that has been prepared for immediate consumption) and
11 prescription and nonprescription medicine, drugs, medical
12 appliances, modifications to a motor vehicle for the purpose of
13 rendering it usable by a disabled person, and insulin, urine
14 testing materials, syringes, and needles used by diabetics, for
15 human use, shall not be subject to tax hereunder), 2c, 3
16 (except as to the disposition of taxes and penalties
17 collected), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k,
18 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12 and 13 of the Retailers'
19 Occupation Tax Act and Section 3-7 of the Uniform Penalty and
20 Interest Act, as fully as if those provisions were set forth
21 herein.

22 Persons subject to any tax imposed under the authority
23 granted in this paragraph may reimburse themselves for their
24 seller's tax liability hereunder by separately stating the tax
25 as an additional charge, which charge may be stated in
26 combination, in a single amount, with State taxes that sellers

1 are required to collect under the Use Tax Act and under
2 subsection (e) of Section 4.03 of the Regional Transportation
3 Authority Act, in accordance with such bracket schedules as the
4 Department may prescribe.

5 Whenever the Department determines that a refund should be
6 made under this paragraph to a claimant instead of issuing a
7 credit memorandum, the Department shall notify the State
8 Comptroller, who shall cause the warrant to be drawn for the
9 amount specified, and to the person named, in the notification
10 from the Department. The refund shall be paid by the State
11 Treasurer out of a county water commission tax fund established
12 under paragraph (g) of this Section.

13 For the purpose of determining whether a tax authorized
14 under this paragraph is applicable, a retail sale by a producer
15 of coal or other mineral mined in Illinois is a sale at retail
16 at the place where the coal or other mineral mined in Illinois
17 is extracted from the earth. This paragraph does not apply to
18 coal or other mineral when it is delivered or shipped by the
19 seller to the purchaser at a point outside Illinois so that the
20 sale is exempt under the Federal Constitution as a sale in
21 interstate or foreign commerce.

22 If a tax is imposed under this subsection (b) a tax shall
23 also be imposed under subsections (c) and (d) of this Section.

24 No tax shall be imposed or collected under this subsection
25 on the sale of a motor vehicle in this State to a resident of
26 another state if that motor vehicle will not be titled in this

1 State.

2 Nothing in this paragraph shall be construed to authorize a
3 county water commission to impose a tax upon the privilege of
4 engaging in any business which under the Constitution of the
5 United States may not be made the subject of taxation by this
6 State.

7 (c) If a tax has been imposed under subsection (b), a
8 County Water Commission Service Occupation Tax shall also be
9 imposed upon all persons engaged, in the territory of the
10 commission, in the business of making sales of service, who, as
11 an incident to making the sales of service, transfer tangible
12 personal property within the territory. The tax rate shall be
13 1/4% of the selling price of tangible personal property so
14 transferred within the territory. The tax imposed under this
15 paragraph and all civil penalties that may be assessed as an
16 incident thereof shall be collected and enforced by the State
17 Department of Revenue. The Department shall have full power to
18 administer and enforce this paragraph; to collect all taxes and
19 penalties due hereunder; to dispose of taxes and penalties so
20 collected in the manner hereinafter provided; and to determine
21 all rights to credit memoranda arising on account of the
22 erroneous payment of tax or penalty hereunder. In the
23 administration of, and compliance with, this paragraph, the
24 Department and persons who are subject to this paragraph shall
25 have the same rights, remedies, privileges, immunities, powers
26 and duties, and be subject to the same conditions,

1 restrictions, limitations, penalties, exclusions, exemptions
2 and definitions of terms, and employ the same modes of
3 procedure, as are prescribed in Sections 1a-1, 2 (except that
4 the reference to State in the definition of supplier
5 maintaining a place of business in this State shall mean the
6 territory of the commission), 2a, 3 through 3-50 (in respect to
7 all provisions therein other than the State rate of tax except
8 that food for human consumption that is to be consumed off the
9 premises where it is sold (other than alcoholic beverages, soft
10 drinks, and food that has been prepared for immediate
11 consumption) and prescription and nonprescription medicines,
12 drugs, medical appliances, modifications to a motor vehicle for
13 the purpose of rendering it usable by a disabled person, and
14 insulin, urine testing materials, syringes, and needles used by
15 diabetics, for human use, shall not be subject to tax
16 hereunder), 4 (except that the reference to the State shall be
17 to the territory of the commission), 5, 7, 8 (except that the
18 jurisdiction to which the tax shall be a debt to the extent
19 indicated in that Section 8 shall be the commission), 9 (except
20 as to the disposition of taxes and penalties collected and
21 except that the returned merchandise credit for this tax may
22 not be taken against any State tax), 10, 11, 12 (except the
23 reference therein to Section 2b of the Retailers' Occupation
24 Tax Act), 13 (except that any reference to the State shall mean
25 the territory of the commission), the first paragraph of
26 Section 15, 15.5, 16, 17, 18, 19 and 20 of the Service

1 Occupation Tax Act as fully as if those provisions were set
2 forth herein.

3 Persons subject to any tax imposed under the authority
4 granted in this paragraph may reimburse themselves for their
5 serviceman's tax liability hereunder by separately stating the
6 tax as an additional charge, which charge may be stated in
7 combination, in a single amount, with State tax that servicemen
8 are authorized to collect under the Service Use Tax Act, and
9 any tax for which servicemen may be liable under subsection (f)
10 of Sec. 4.03 of the Regional Transportation Authority Act, in
11 accordance with such bracket schedules as the Department may
12 prescribe.

13 Whenever the Department determines that a refund should be
14 made under this paragraph to a claimant instead of issuing a
15 credit memorandum, the Department shall notify the State
16 Comptroller, who shall cause the warrant to be drawn for the
17 amount specified, and to the person named, in the notification
18 from the Department. The refund shall be paid by the State
19 Treasurer out of a county water commission tax fund established
20 under paragraph (g) of this Section.

21 Nothing in this paragraph shall be construed to authorize a
22 county water commission to impose a tax upon the privilege of
23 engaging in any business which under the Constitution of the
24 United States may not be made the subject of taxation by the
25 State.

26 (d) If a tax has been imposed under subsection (b), a tax

1 shall also imposed upon the privilege of using, in the
2 territory of the commission, any item of tangible personal
3 property that is purchased outside the territory at retail from
4 a retailer, and that is titled or registered with an agency of
5 this State's government, at a rate of 1/4% of the selling price
6 of the tangible personal property within the territory, as
7 "selling price" is defined in the Use Tax Act. The tax shall be
8 collected from persons whose Illinois address for titling or
9 registration purposes is given as being in the territory. The
10 tax shall be collected by the Department of Revenue for a
11 county water commission. The tax must be paid to the State, or
12 an exemption determination must be obtained from the Department
13 of Revenue, before the title or certificate of registration for
14 the property may be issued. The tax or proof of exemption may
15 be transmitted to the Department by way of the State agency
16 with which, or the State officer with whom, the tangible
17 personal property must be titled or registered if the
18 Department and the State agency or State officer determine that
19 this procedure will expedite the processing of applications for
20 title or registration.

21 The Department shall have full power to administer and
22 enforce this paragraph; to collect all taxes, penalties and
23 interest due hereunder; to dispose of taxes, penalties and
24 interest so collected in the manner hereinafter provided; and
25 to determine all rights to credit memoranda or refunds arising
26 on account of the erroneous payment of tax, penalty or interest

1 hereunder. In the administration of, and compliance with this
2 paragraph, the Department and persons who are subject to this
3 paragraph shall have the same rights, remedies, privileges,
4 immunities, powers and duties, and be subject to the same
5 conditions, restrictions, limitations, penalties, exclusions,
6 exemptions and definitions of terms and employ the same modes
7 of procedure, as are prescribed in Sections 2 (except the
8 definition of "retailer maintaining a place of business in this
9 State"), 3 through 3-80 (except provisions pertaining to the
10 State rate of tax, and except provisions concerning collection
11 or refunding of the tax by retailers, and except that food for
12 human consumption that is to be consumed off the premises where
13 it is sold (other than alcoholic beverages, soft drinks, and
14 food that has been prepared for immediate consumption) and
15 prescription and nonprescription medicines, drugs, medical
16 appliances, modifications to a motor vehicle for the purpose of
17 rendering it usable by a disabled person, and insulin, urine
18 testing materials, syringes, and needles used by diabetics, for
19 human use, shall not be subject to tax hereunder), 4, 11, 12,
20 12a, 14, 15, 19 (except the portions pertaining to claims by
21 retailers and except the last paragraph concerning refunds),
22 20, 21 and 22 of the Use Tax Act and Section 3-7 of the Uniform
23 Penalty and Interest Act that are not inconsistent with this
24 paragraph, as fully as if those provisions were set forth
25 herein.

26 Whenever the Department determines that a refund should be

1 made under this paragraph to a claimant instead of issuing a
2 credit memorandum, the Department shall notify the State
3 Comptroller, who shall cause the order to be drawn for the
4 amount specified, and to the person named, in the notification
5 from the Department. The refund shall be paid by the State
6 Treasurer out of a county water commission tax fund established
7 under paragraph (g) of this Section.

8 (e) A certificate of registration issued by the State
9 Department of Revenue to a retailer under the Retailers'
10 Occupation Tax Act or under the Service Occupation Tax Act
11 shall permit the registrant to engage in a business that is
12 taxed under the tax imposed under paragraphs (b), (c) or (d) of
13 this Section and no additional registration shall be required
14 under the tax. A certificate issued under the Use Tax Act or
15 the Service Use Tax Act shall be applicable with regard to any
16 tax imposed under paragraph (c) of this Section.

17 (f) Any ordinance imposing or discontinuing any tax under
18 this Section shall be adopted and a certified copy thereof
19 filed with the Department on or before June 1, whereupon the
20 Department of Revenue shall proceed to administer and enforce
21 this Section on behalf of the county water commission as of
22 September 1 next following the adoption and filing. Beginning
23 January 1, 1992, an ordinance or resolution imposing or
24 discontinuing the tax hereunder shall be adopted and a
25 certified copy thereof filed with the Department on or before
26 the first day of July, whereupon the Department shall proceed

1 to administer and enforce this Section as of the first day of
2 October next following such adoption and filing. Beginning
3 January 1, 1993, an ordinance or resolution imposing or
4 discontinuing the tax hereunder shall be adopted and a
5 certified copy thereof filed with the Department on or before
6 the first day of October, whereupon the Department shall
7 proceed to administer and enforce this Section as of the first
8 day of January next following such adoption and filing.

9 (g) The State Department of Revenue shall, upon collecting
10 any taxes as provided in this Section, pay the taxes over to
11 the State Treasurer as trustee for the commission. The taxes
12 shall be held in a trust fund outside the State Treasury. On or
13 before the 25th day of each calendar month, the State
14 Department of Revenue shall prepare and certify to the
15 Comptroller of the State of Illinois the amount to be paid to
16 the commission, which shall be the then balance in the fund,
17 less any amount determined by the Department to be necessary
18 for the payment of refunds. Within 10 days after receipt by the
19 Comptroller of the certification of the amount to be paid to
20 the commission, the Comptroller shall cause an order to be
21 drawn for the payment for the amount in accordance with the
22 direction in the certification.

23 (Source: P.A. 92-221, eff. 8-2-01; 93-1068, eff. 1-15-05.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law."