



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3121

Introduced 2/15/2018, by Sen. Chris Nybo

SYNOPSIS AS INTRODUCED:

35 ILCS 5/304

from Ch. 120, par. 3-304

Amends the Illinois Income Tax Act. For the purpose of calculating the sales factor when allocating business income of persons other than residents, removes provisions providing that the sale is in this State if the property is shipped from an office, store, warehouse, factory or other place of storage in this State and the purchaser is not taxable in the State of the purchaser. Removes provisions concerning purchasers who are doing business on a premises owned or leased by a person who has independently contracted with the seller for the printing of newspapers, periodicals or books. Removes provisions providing that sales of tangible personal property are not in this State if the seller and purchaser would be members of the same unitary business group but for the fact that either the seller or purchaser is a person with 80% or more of total business activity outside of the United States and the property is purchased for resale.

LRB100 16525 HLH 35728 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 304 as follows:

6 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

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

5 (1) Property factor.

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

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

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

25 (2) Payroll factor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 competes or is scheduled to compete.

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

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

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

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

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

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

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

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

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

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

21 (3) Sales factor.

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

26 (B) For taxable years ending prior to December 31,

1 2019, sales ~~Sales~~ of tangible personal property are in this
2 State if:

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

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

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

25 For taxable years ending on or after December 31, 2019,
26 sales of tangible personal property are in this State if:

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

5 (ii) The property is shipped from an office, store,
6 warehouse, factory or other place of storage in this
7 State and the purchaser is the United States
8 government.

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

16 (ii) Place of utilization.

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

1 state using the patent and of patented items
2 produced within that state, divided by the total of
3 such gross receipts for all states in which the
4 patent is utilized.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 "Directory assistance" means an "ancillary

1 service" of providing telephone number information,
2 and/or address information.

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

7 "Mobile telecommunications service" means
8 commercial mobile radio service, as defined in Section
9 20.3 of Title 47 of the Code of Federal Regulations as
10 in effect on June 1, 1999.

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

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

1 service includes telecommunications service, except a
2 prepaid wireless calling service, that would be a
3 prepaid calling service except it is not exclusively a
4 telecommunication service.

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

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

21 "Private communication service" means a
22 telecommunication service that entitles the customer
23 to exclusive or priority use of a communications
24 channel or group of channels between or among
25 termination points, regardless of the manner in which
26 such channel or channels are connected, and includes

1 switching capacity, extension lines, stations, and any
2 other associated services that are provided in
3 connection with the use of such channel or channels.

4 "Service address" means:

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

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

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

20 "Telecommunications service" means the electronic
21 transmission, conveyance, or routing of voice, data,
22 audio, video, or any other information or signals to a
23 point, or between or among points. The term
24 "telecommunications service" includes such
25 transmission, conveyance, or routing in which computer
26 processing applications are used to act on the form,

1 code or protocol of the content for purposes of
2 transmission, conveyance or routing without regard to
3 whether such service is referred to as voice over
4 Internet protocol services or is classified by the
5 Federal Communications Commission as enhanced or value
6 added. "Telecommunications service" does not include:

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

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

15 (c) Tangible personal property;

16 (d) Advertising, including but not limited to
17 directory advertising;

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

20 (f) Internet access service;

21 (g) Radio and television audio and video
22 programming services, regardless of the medium,
23 including the furnishing of transmission,
24 conveyance and routing of such services by the
25 programming service provider. Radio and television
26 audio and video programming services shall include

1 but not be limited to cable service as defined in
2 47 USC 522(6) and audio and video programming
3 services delivered by commercial mobile radio
4 service providers, as defined in 47 CFR 20.3;

5 (h) "Ancillary services"; or

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

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

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

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

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

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

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

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

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

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

26 (b) 100% of receipts from charges for the total

1 channel mileage between each channel termination
2 point in this State.

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

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

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

26 (vii) Receipts to access a carrier's network or

1 from the sale of telecommunication services or
2 ancillary services for resale are in this State as
3 follows:

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

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

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

19 (d) Gross receipts from sales of
20 telecommunication services or from ancillary
21 services for telecommunications services sold to
22 other telecommunication service providers for
23 resale shall be sourced to this State using the
24 apportionment concepts used for non-resale
25 receipts of telecommunications services if the
26 information is readily available to make that

1 determination. If the information is not readily
2 available, then the taxpayer may use any other
3 reasonable and consistent method.

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

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

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

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

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

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

1 notwithstanding that the series relates to the same
2 principal subject and is produced during one or more
3 tax periods.

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

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

26 (iii) In the case where film or radio

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

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

1 broadcasting service in Illinois.

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

15 (B-8) Gross receipts from winnings under the Illinois
16 Lottery Law from the assignment of a prize under Section
17 13.1 of the Illinois Lottery Law are received in this
18 State. This paragraph (B-8) applies only to taxable years
19 ending on or after December 31, 2013.

20 (C) For taxable years ending before December 31, 2008,
21 sales, other than sales governed by paragraphs (B), (B-1),
22 (B-2), and (B-8) are in this State if:

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

25 (ii) The income-producing activity is performed
26 both within and without this State and a greater

1 proportion of the income-producing activity is
2 performed within this State than without this State,
3 based on performance costs.

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

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

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

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

24 (a) in the case of a taxpayer who is a dealer
25 in the item of intangible personal property within
26 the meaning of Section 475 of the Internal Revenue

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

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

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

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

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

1 December 31, 1995.

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

19 (b) Insurance companies.

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

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

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

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

14 (c) Financial organizations.

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

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

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

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

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

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

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

25 (A) Adjusted Income. The adjusted income of an
26 international banking facility is its income reduced

1 by the amount of the floor amount.

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

6 (i) The numerator shall be:

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

20 The average aggregate, determined on a
21 quarterly basis, of such loans (other than loans of
22 an international banking facility), as reported by
23 the financial institution for its branches,
24 agencies and offices within the state, on the
25 corresponding Schedule and lines of the
26 Consolidated Report of Condition for the current

1 taxable year, provided, however, that in no case
2 shall the amount determined in this clause (the
3 subtrahend) exceed the amount determined in the
4 preceding clause (the minuend); and

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

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

1 of Condition, as originally filed, to the extent such
2 amendment or change alters the information used in
3 determining the floor amount.

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

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

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

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

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

24 (v) Interest income, fees, gains on disposition,
25 service charges, merchant discount income, and other
26 receipts from credit card receivables are from sources

1 in this State if the card charges are regularly billed
2 to a customer in this State.

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

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

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

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

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

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

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

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

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

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

1 denominator of which is the gross income from
2 all such funds and such securities.

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

20 (D) Properly assigned, for purposes of
21 this paragraph (2) of this subsection, means
22 the investment or trading asset or activity is
23 assigned to the fixed place of business with
24 which it has a preponderance of substantive
25 contacts. An investment or trading asset or
26 activity assigned by the taxpayer to a fixed

1 place of business without the State shall be
2 presumed to have been properly assigned if:

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

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

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

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

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

22 (4) (Blank).

23 (5) (Blank).

24 (c-1) Federally regulated exchanges. For taxable years
25 ending on or after December 31, 2012, business income of a
26 federally regulated exchange shall, at the option of the

1 federally regulated exchange, be apportioned to this State by
2 multiplying such income by a fraction, the numerator of which
3 is its business income from sources within this State, and the
4 denominator of which is its business income from all sources.
5 For purposes of this subsection, the business income within
6 this State of a federally regulated exchange is the sum of the
7 following:

8 (1) Receipts attributable to transactions executed on
9 a physical trading floor if that physical trading floor is
10 located in this State.

11 (2) Receipts attributable to all other matching,
12 execution, or clearing transactions, including without
13 limitation receipts from the provision of matching,
14 execution, or clearing services to another entity,
15 multiplied by (i) for taxable years ending on or after
16 December 31, 2012 but before December 31, 2013, 63.77%; and
17 (ii) for taxable years ending on or after December 31,
18 2013, 27.54%.

19 (3) All other receipts not governed by subparagraphs
20 (1) or (2) of this subsection (c-1), to the extent the
21 receipts would be characterized as "sales in this State"
22 under item (3) of subsection (a) of this Section.

23 "Federally regulated exchange" means (i) a "registered
24 entity" within the meaning of 7 U.S.C. Section 1a(40) (A), (B),
25 or (C), (ii) an "exchange" or "clearing agency" within the
26 meaning of 15 U.S.C. Section 78c (a) (1) or (23), (iii) any such

1 entities regulated under any successor regulatory structure to
2 the foregoing, and (iv) all taxpayers who are members of the
3 same unitary business group as a federally regulated exchange,
4 determined without regard to the prohibition in Section
5 1501(a)(27) of this Act against including in a unitary business
6 group taxpayers who are ordinarily required to apportion
7 business income under different subsections of this Section;
8 provided that this subparagraph (iv) shall apply only if 50% or
9 more of the business receipts of the unitary business group
10 determined by application of this subparagraph (iv) for the
11 taxable year are attributable to the matching, execution, or
12 clearing of transactions conducted by an entity described in
13 subparagraph (i), (ii), or (iii) of this paragraph.

14 In no event shall the Illinois apportionment percentage
15 computed in accordance with this subsection (c-1) for any
16 taxpayer for any tax year be less than the Illinois
17 apportionment percentage computed under this subsection (c-1)
18 for that taxpayer for the first full tax year ending on or
19 after December 31, 2013 for which this subsection (c-1) applied
20 to the taxpayer.

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

25 (1) Such business income (other than that derived from
26 transportation by pipeline) shall be apportioned to this

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

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

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

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

1 1,000 cubic feet of gas, or of any specified quantity of
2 any other substance, the distance of 1 mile for a
3 consideration.

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

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

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

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

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

1 attributable to this State by any such member or members shall
2 be apportioned by means of the combined apportionment method.

3 (f) Alternative allocation. If the allocation and
4 apportionment provisions of subsections (a) through (e) and of
5 subsection (h) do not, for taxable years ending before December
6 31, 2008, fairly represent the extent of a person's business
7 activity in this State, or, for taxable years ending on or
8 after December 31, 2008, fairly represent the market for the
9 person's goods, services, or other sources of business income,
10 the person may petition for, or the Director may, without a
11 petition, permit or require, in respect of all or any part of
12 the person's business activity, if reasonable:

13 (1) Separate accounting;

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

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

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

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

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

26 (1) for tax years ending on or after December 31, 1998

1 and before December 31, 1999, 16 2/3% of the property
2 factor plus 16 2/3% of the payroll factor plus 66 2/3% of
3 the sales factor;

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

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

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

17 (Source: P.A. 99-642, eff. 7-28-16; 100-201, eff. 8-18-17.)