



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB2102

Introduced 2/26/2021, by Sen. Robert F. Martwick

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/205	from Ch. 120, par. 2-205
35 ILCS 5/303	from Ch. 120, par. 3-303
35 ILCS 5/304	from Ch. 120, par. 3-304
35 ILCS 5/710	from Ch. 120, par. 7-710

Amends the Illinois Income Tax Act. Restores certain provisions concerning the calculation of base income for an exempt organization under the Internal Revenue Code. Provides that certain sports wagering winnings are allocable to this State. Effective immediately.

LRB102 17277 HLH 22749 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 Sections 205, 303, 304 and 710 as follows:

6 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

7 Sec. 205. Exempt organizations.

8 (a) Charitable, etc. organizations. The ~~For tax years~~  
9 ~~beginning before January 1, 2019,~~ the base income of an  
10 organization which is exempt from the federal income tax by  
11 reason of the Internal Revenue Code shall not be determined  
12 under section 203 of this Act, but shall be its unrelated  
13 business taxable income as determined under section 512 of the  
14 Internal Revenue Code, without any deduction for the tax  
15 imposed by this Act. The standard exemption provided by  
16 section 204 of this Act shall not be allowed in determining the  
17 net income of an organization to which this subsection  
18 applies.

19 ~~For tax years beginning on or after January 1, 2019, the~~  
20 ~~base income of an organization which is exempt from the~~  
21 ~~federal income tax by reason of the Internal Revenue Code~~  
22 ~~shall not be determined under Section 203 of this Act, but~~  
23 ~~shall be its unrelated business taxable income as determined~~

1 ~~under Section 512 of the Internal Revenue Code, without regard~~  
2 ~~to Section 512(a)(7) of the Internal Revenue Code and without~~  
3 ~~any deduction for the tax imposed by this Act. The standard~~  
4 ~~exemption provided by Section 204 of this Act shall not be~~  
5 ~~allowed in determining the net income of an organization to~~  
6 ~~which this subsection applies.~~ This exclusion is exempt from  
7 the provisions of Section 250.

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

1 capacities.

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

8 (d) Combat zone, terrorist attack, and certain other  
9 deaths. An individual relieved from the federal income tax for  
10 any taxable year by reason of section 692 of the Internal  
11 Revenue Code shall not be subject to the tax imposed by this  
12 Act for such taxable year.

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

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

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

25 (2) activities of the person's employees or agents  
26 located solely at the premises of a printer and related to

1 quality control, distribution, or printing services  
2 performed by a printer in the State with which the person  
3 has contracted for printing.

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

10 (Source: P.A. 101-545, eff. 8-23-19.)

11 (35 ILCS 5/303) (from Ch. 120, par. 3-303)

12 Sec. 303. (a) In general. Any item of capital gain or loss,  
13 and any item of income from rents or royalties from real or  
14 tangible personal property, interest, dividends, and patent or  
15 copyright royalties, and prizes awarded under the Illinois  
16 Lottery Law, ~~and,~~ for taxable years ending on or after  
17 December 31, 2019, wagering and gambling winnings from  
18 Illinois sources as set forth in subsection (e-1) of this  
19 Section, and, for taxable years ending on or after December  
20 31, 2021, sports wagering and winnings from Illinois sources  
21 as set forth in subsection (e-2) of this Section, to the extent  
22 such item constitutes nonbusiness income, together with any  
23 item of deduction directly allocable thereto, shall be  
24 allocated by any person other than a resident as provided in  
25 this Section.

1 (b) Capital gains and losses.

2 (1) Real property. Capital gains and losses from sales  
3 or exchanges of real property are allocable to this State  
4 if the property is located in this State.

5 (2) Tangible personal property. Capital gains and  
6 losses from sales or exchanges of tangible personal  
7 property are allocable to this State if, at the time of  
8 such sale or exchange:

9 (A) The property had its situs in this State; or

10 (B) The taxpayer had its commercial domicile in  
11 this State and was not taxable in the state in which  
12 the property had its situs.

13 (3) Intangibles. Capital gains and losses from sales  
14 or exchanges of intangible personal property are allocable  
15 to this State if the taxpayer had its commercial domicile  
16 in this State at the time of such sale or exchange.

17 (c) Rents and royalties.

18 (1) Real property. Rents and royalties from real  
19 property are allocable to this State if the property is  
20 located in this State.

21 (2) Tangible personal property. Rents and royalties  
22 from tangible personal property are allocable to this  
23 State:

24 (A) If and to the extent that the property is  
25 utilized in this State; or

26 (B) In their entirety if, at the time such rents or

1 royalties were paid or accrued, the taxpayer had its  
2 commercial domicile in this State and was not  
3 organized under the laws of or taxable with respect to  
4 such rents or royalties in the state in which the  
5 property was utilized. The extent of utilization of  
6 tangible personal property in a state is determined by  
7 multiplying the rents or royalties derived from such  
8 property by a fraction, the numerator of which is the  
9 number of days of physical location of the property in  
10 the state during the rental or royalty period in the  
11 taxable year and the denominator of which is the  
12 number of days of physical location of the property  
13 everywhere during all rental or royalty periods in the  
14 taxable year. If the physical location of the property  
15 during the rental or royalty period is unknown or  
16 unascertainable by the taxpayer, tangible personal  
17 property is utilized in the state in which the  
18 property was located at the time the rental or royalty  
19 payer obtained possession.

20 (d) Patent and copyright royalties.

21 (1) Allocation. Patent and copyright royalties are  
22 allocable to this State:

23 (A) If and to the extent that the patent or  
24 copyright is utilized by the payer in this State; or

25 (B) If and to the extent that the patent or  
26 copyright is utilized by the payer in a state in which

1 the taxpayer is not taxable with respect to such  
2 royalties and, at the time such royalties were paid or  
3 accrued, the taxpayer had its commercial domicile in  
4 this State.

5 (2) Utilization.

6 (A) A patent is utilized in a state to the extent  
7 that it is employed in production, fabrication,  
8 manufacturing or other processing in the state or to  
9 the extent that a patented product is produced in the  
10 state. If the basis of receipts from patent royalties  
11 does not permit allocation to states or if the  
12 accounting procedures do not reflect states of  
13 utilization, the patent is utilized in this State if  
14 the taxpayer has its commercial domicile in this  
15 State.

16 (B) A copyright is utilized in a state to the  
17 extent that printing or other publication originates  
18 in the state. If the basis of receipts from copyright  
19 royalties does not permit allocation to states or if  
20 the accounting procedures do not reflect states of  
21 utilization, the copyright is utilized in this State  
22 if the taxpayer has its commercial domicile in this  
23 State.

24 (e) Illinois lottery prizes. Prizes awarded under the  
25 Illinois Lottery Law are allocable to this State. Payments  
26 received in taxable years ending on or after December 31,



1 2013, from the assignment of a prize under Section 13.1 of the  
2 Illinois Lottery Law are allocable to this State.

3 (e-1) Wagering and gambling winnings. Payments received in  
4 taxable years ending on or after December 31, 2019 of winnings  
5 from pari-mutuel wagering conducted at a wagering facility  
6 licensed under the Illinois Horse Racing Act of 1975 and from  
7 gambling games conducted on a riverboat or in a casino or  
8 organization gaming facility licensed under the Illinois  
9 Gambling Act are allocable to this State.

10 (e-2) Sports wagering and winnings. Payments received in  
11 taxable years ending on or after December 31, 2021 of winnings  
12 from sports wagering conducted in accordance with the Sports  
13 Wagering Act are allocable to this State.

14 (e-5) Unemployment benefits. Unemployment benefits paid by  
15 the Illinois Department of Employment Security are allocable  
16 to this State.

17 (f) Taxability in other state. For purposes of allocation  
18 of income pursuant to this Section, a taxpayer is taxable in  
19 another state if:

20 (1) In that state he is subject to a net income tax, a  
21 franchise tax measured by net income, a franchise tax for  
22 the privilege of doing business, or a corporate stock tax;  
23 or

24 (2) That state has jurisdiction to subject the  
25 taxpayer to a net income tax regardless of whether, in  
26 fact, the state does or does not.

1 (g) Cross references.

2 (1) For allocation of interest and dividends by  
3 persons other than residents, see Section 301(c)(2).

4 (2) For allocation of nonbusiness income by residents,  
5 see Section 301(a).

6 (Source: P.A. 101-31, eff. 6-28-19.)

7 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

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

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

1 shall compute their apportionment factor by weighting their  
2 property, payroll, and sales factors as provided in subsection  
3 (h) of this Section.

4 (1) Property factor.

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

13 (B) Property owned by the person is valued at its  
14 original cost. Property rented by the person is valued at  
15 8 times the net annual rental rate. Net annual rental rate  
16 is the annual rental rate paid by the person less any  
17 annual rental rate received by the person from  
18 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) For tax years ending prior to December 31,  
13                2020, some of the service is performed within this  
14                State and either the base of operations, or if there is  
15                no base of operations, the place from which the  
16                service is directed or controlled is within this  
17                State, or the base of operations or the place from  
18                which the service is directed or controlled is not in  
19                any state in which some part of the service is  
20                performed, but the individual's residence is in this  
21                State. For tax years ending on or after December 31,  
22                2020, compensation is paid in this State if some of the  
23                individual's service is performed within this State,  
24                the individual's service performed within this State  
25                is nonincidental to the individual's service performed  
26                without this State, and the individual's service is

1 performed within this State for more than 30 working  
2 days during the tax year. The amount of compensation  
3 paid in this State shall include the portion of the  
4 individual's total compensation for services performed  
5 on behalf of his or her employer during the tax year  
6 which the number of working days spent within this  
7 State during the tax year bears to the total number of  
8 working days spent both within and without this State  
9 during the tax year. For purposes of this paragraph:

10 (a) The term "working day" means all days  
11 during the tax year in which the individual  
12 performs duties on behalf of his or her employer.  
13 All days in which the individual performs no  
14 duties on behalf of his or her employer (e.g.,  
15 weekends, vacation days, sick days, and holidays)  
16 are not working days.

17 (b) A working day is spent within this State  
18 if:

19 (1) the individual performs service on  
20 behalf of the employer and a greater amount of  
21 time on that day is spent by the individual  
22 performing duties on behalf of the employer  
23 within this State, without regard to time  
24 spent traveling, than is spent performing  
25 duties on behalf of the employer without this  
26 State; or

1           (2) the only service the individual  
2 performs on behalf of the employer on that day  
3 is traveling to a destination within this  
4 State, and the individual arrives on that day.

5           (c) Working days spent within this State do  
6 not include any day in which the employee is  
7 performing services in this State during a  
8 disaster period solely in response to a request  
9 made to his or her employer by the government of  
10 this State, by any political subdivision of this  
11 State, or by a person conducting business in this  
12 State to perform disaster or emergency-related  
13 services in this State. For purposes of this item  
14 (c):

15           "Declared State disaster or emergency"  
16 means a disaster or emergency event (i) for  
17 which a Governor's proclamation of a state of  
18 emergency has been issued or (ii) for which a  
19 Presidential declaration of a federal major  
20 disaster or emergency has been issued.

21           "Disaster period" means a period that  
22 begins 10 days prior to the date of the  
23 Governor's proclamation or the President's  
24 declaration (whichever is earlier) and extends  
25 for a period of 60 calendar days after the end  
26 of the declared disaster or emergency period.

1 "Disaster or emergency-related services"  
2 means repairing, renovating, installing,  
3 building, or rendering services or conducting  
4 other business activities that relate to  
5 infrastructure that has been damaged,  
6 impaired, or destroyed by the declared State  
7 disaster or emergency.

8 "Infrastructure" means property and  
9 equipment owned or used by a public utility,  
10 communications network, broadband and internet  
11 service provider, cable and video service  
12 provider, electric or gas distribution system,  
13 or water pipeline that provides service to  
14 more than one customer or person, including  
15 related support facilities. "Infrastructure"  
16 includes, but is not limited to, real and  
17 personal property such as buildings, offices,  
18 power lines, cable lines, poles,  
19 communications lines, pipes, structures, and  
20 equipment.

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

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

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

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

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

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

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



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

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

24           (B) Also included in duty days are game  
25 days, practice days, days spent at team  
26 meetings, promotional caravans, preseason

1 training camps, and days served with the team  
2 through all post-season games in which the  
3 team competes or is scheduled to compete.

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

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

25 (E) Days for which a member of a  
26 professional athletic team is on the disabled

1 list and does not conduct rehabilitation  
2 activities at facilities of the team, and is  
3 not otherwise performing services for the team  
4 in Illinois, shall not be considered duty days  
5 spent in this State. All days on the disabled  
6 list, however, are considered to be included  
7 in total duty days spent both within and  
8 without this State.

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

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

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

23 This compensation shall include, but is not  
24 limited to, salaries, wages, bonuses as described  
25 in this subpart, and any other type of  
26 compensation paid during the taxable year to a

1 member of a professional athletic team for  
2 services performed in that year. This compensation  
3 does not include strike benefits, severance pay,  
4 termination pay, contract or option year buy-out  
5 payments, expansion or relocation payments, or any  
6 other payments not related to services performed  
7 for the team.

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

25 (3) Sales factor.

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

1           which is the total sales of the person in this State during  
2           the taxable year, and the denominator of which is the  
3           total sales of the person everywhere during the taxable  
4           year.

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

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

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

1 resale.

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

4 (i) Gross receipts from the licensing, sale, or  
5 other disposition of a patent, copyright, trademark,  
6 or similar item of intangible personal property, other  
7 than gross receipts governed by paragraph (B-7) of  
8 this item (3), are in this State to the extent the item  
9 is utilized in this State during the year the gross  
10 receipts are included 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  
19 equal to the gross receipts of the licensee or  
20 purchaser 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  
24 of 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  
3 utilized in more than one state, the extent to  
4 which it is utilized in any one state shall be a  
5 fraction equal to the gross receipts from sales or  
6 licenses of materials printed or published in that  
7 state divided by the total of such gross receipts  
8 for all 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, other than  
25 gross receipts governed by paragraph (B-7) of this item  
26 (3), may be included in the numerator or denominator of

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

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

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

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

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



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

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

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

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

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

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

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

1 services.

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

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

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

26 "Prepaid telecommunication service" means the

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

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

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

25 "Service address" means:

26 (a) The location of the telecommunications

1 equipment to which a customer's call is charged  
2 and from which the call originates or terminates,  
3 regardless of where the call is billed or paid;

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

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

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

1 added. "Telecommunications service" does not include:

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

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

10 (c) Tangible personal property;

11 (d) Advertising, including,    but not limited  
12 to    directory advertising;

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

15 (f) Internet access service;

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

1 (h) "Ancillary services"; or  
2 (i) Digital products "delivered  
3 electronically", including, but not limited to,  
4 software, music, video, reading materials or ring  
5 tones.

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

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

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

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

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

26 (iii) Receipts from the sale of postpaid

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

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

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

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

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

25 (c) 50% of the total receipts from charges for  
26 service segments when those segments are between 2

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

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

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

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

26 (a) 100% of the receipts from access fees



1           attributable to intrastate telecommunications  
2           service that both originates and terminates in  
3           this State.

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

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

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

26          (B-7) For taxable years ending on or after December

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

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

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

23                   "Broadcast" or "broadcasting" or "broadcasting  
24                   services" means the transmission or provision of film  
25                   or radio programming, whether through the public  
26                   airwaves, by cable, by direct or indirect satellite

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

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

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

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

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

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

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

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

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

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

12 (B-8) Gross receipts from winnings under the Illinois  
13 Lottery Law from the assignment of a prize under Section  
14 13.1 of the Illinois Lottery Law are received in this  
15 State. This paragraph (B-8) applies only to taxable years  
16 ending on or after December 31, 2013.

17 (B-9) For taxable years ending on or after December  
18 31, 2019, gross receipts from winnings from pari-mutuel  
19 wagering conducted at a wagering facility licensed under  
20 the Illinois Horse Racing Act of 1975 or from winnings  
21 from gambling games conducted on a riverboat or in a  
22 casino or organization gaming facility licensed under the  
23 Illinois Gambling Act are in this State.

24 (B-10) For taxable years ending on or after December  
25 31, 2021, gross receipts from winnings from sports  
26 wagering conducted in accordance with the Sports Wagering

1       Act are in this State.

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

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

7           (ii) The income-producing activity is performed  
8 both within and without this State and a greater  
9 proportion of the income-producing activity is  
10 performed within this State than without this State,  
11 based on performance costs.

12       (C-5) For taxable years ending on or after December  
13 31, 2008, sales, other than sales governed by paragraphs  
14 (B), (B-1), (B-2), (B-5), and (B-7), are in this State if  
15 any of the following criteria are met:

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

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

1 State.

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

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

21 (b) in all other cases, if the  
22 income-producing activity of the taxpayer is  
23 performed in this State or, if the  
24 income-producing activity of the taxpayer is  
25 performed both within and without this State, if a  
26 greater proportion of the income-producing



1 activity of the taxpayer is performed within this  
2 State than in any other state, based on  
3 performance costs.

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

1           (D) For taxable years ending on or after December 31,  
2           1995, the following items of income shall not be included  
3           in the numerator or denominator of the sales factor:  
4           dividends; amounts included under Section 78 of the  
5           Internal Revenue Code; and Subpart F income as defined in  
6           Section 952 of the Internal Revenue Code. No inference  
7           shall be drawn from the enactment of this paragraph (D) in  
8           construing this Section for taxable years ending before  
9           December 31, 1995.

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

1 group.

2 (b) Insurance companies.

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

18 (2) Reinsurance. If the principal source of premiums  
19 written by an insurance company consists of premiums for  
20 reinsurance accepted by it, the business income of such  
21 company shall be apportioned to this State by multiplying  
22 such income by a fraction, the numerator of which is the  
23 sum of (i) direct premiums written for insurance upon  
24 property or risk in this State, plus (ii) premiums written  
25 for reinsurance accepted in respect of property or risk in  
26 this State, and the denominator of which is the sum of

1 (iii) direct premiums written for insurance upon property  
2 or risk everywhere, plus (iv) premiums written for  
3 reinsurance accepted in respect of property or risk  
4 everywhere. For purposes of this paragraph, premiums  
5 written for reinsurance accepted in respect of property or  
6 risk in this State, whether or not otherwise determinable,  
7 may, at the election of the company, be determined on the  
8 basis of the proportion which premiums written for  
9 reinsurance accepted from companies commercially domiciled  
10 in Illinois bears to premiums written for reinsurance  
11 accepted from all sources, or, alternatively, in the  
12 proportion which the sum of the direct premiums written  
13 for insurance upon property or risk in this State by each  
14 ceding company from which reinsurance is accepted bears to  
15 the sum of the total direct premiums written by each such  
16 ceding company for the taxable year. The election made by  
17 a company under this paragraph for its first taxable year  
18 ending on or after December 31, 2011, shall be binding for  
19 that company for that taxable year and for all subsequent  
20 taxable years, and may be altered only with the written  
21 permission of the Department, which shall not be  
22 unreasonably withheld.

23 (c) Financial organizations.

24 (1) In general. For taxable years ending before  
25 December 31, 2008, business income of a financial  
26 organization shall be apportioned to this State by

1 multiplying such income by a fraction, the numerator of  
2 which is its business income from sources within this  
3 State, and the denominator of which is its business income  
4 from all sources. For the purposes of this subsection, the  
5 business income of a financial organization from sources  
6 within this State is the sum of the amounts referred to in  
7 subparagraphs (A) through (E) following, but excluding the  
8 adjusted income of an international banking facility as  
9 determined in paragraph (2):

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

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

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

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

20 (E) Any other gross income resulting from the  
21 operation as a financial organization within this  
22 State.

23 In computing the amounts referred to in paragraphs (A)  
24 through (E) of this subsection, any amount received by a  
25 member of an affiliated group (determined under Section  
26 1504(a) of the Internal Revenue Code but without reference

1 to whether any such corporation is an "includible  
2 corporation" under Section 1504(b) of the Internal Revenue  
3 Code) from another member of such group shall be included  
4 only to the extent such amount exceeds expenses of the  
5 recipient directly related thereto.

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

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

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

15 (i) The numerator shall be:

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

1 other regulatory authorities, for the year 1980,  
2 minus

3 The average aggregate, determined on a  
4 quarterly basis, of such loans (other than loans  
5 of an international banking facility), as reported  
6 by the financial institution for its branches,  
7 agencies and offices within the state, on the  
8 corresponding Schedule and lines of the  
9 Consolidated Report of Condition for the current  
10 taxable year, provided, however, that in no case  
11 shall the amount determined in this clause (the  
12 subtrahend) exceed the amount determined in the  
13 preceding clause (the minuend); and

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

22 (C) Change to Consolidated Report of Condition and  
23 in Qualification. In the event the Consolidated Report  
24 of Condition which is filed with the Federal Deposit  
25 Insurance Corporation and other regulatory authorities  
26 is altered so that the information required for

1 determining the floor amount is not found on Schedule  
2 A, lines 2.c., 5.b. and 7.a., the financial  
3 institution shall notify the Department and the  
4 Department may, by regulations or otherwise, prescribe  
5 or authorize the use of an alternative source for such  
6 information. The financial institution shall also  
7 notify the Department should its international banking  
8 facility fail to qualify as such, in whole or in part,  
9 or should there be any amendment or change to the  
10 Consolidated Report of Condition, as originally filed,  
11 to the extent such amendment or change alters the  
12 information used in determining the floor amount.

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



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

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

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

20 (iv) Interest income, commissions, fees, gains on  
21 disposition, and other receipts from commercial loans  
22 and installment obligations that are not secured by  
23 real or tangible personal property are from sources in  
24 this State if the proceeds of the loan are to be  
25 applied in this State. If it cannot be determined  
26 where the funds are to be applied, the income and

1 receipts are from sources in this State if the office  
2 of the borrower from which the loan was negotiated in  
3 the regular course of business is located in this  
4 State. If the location of this office cannot be  
5 determined, the income and receipts shall be excluded  
6 from the numerator and denominator of the sales  
7 factor.

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

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

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

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

25 (1) Interest, dividends, net gains (but not  
26 less than zero) and other income from investment

1 assets and activities from trading assets and  
2 activities shall be included in the receipts  
3 factor. Investment assets and activities and  
4 trading assets and activities include, but are not  
5 limited to: investment securities; trading account  
6 assets; federal funds; securities purchased and  
7 sold under agreements to resell or repurchase;  
8 options; futures contracts; forward contracts;  
9 notional principal contracts such as swaps;  
10 equities; and foreign currency transactions. With  
11 respect to the investment and trading assets and  
12 activities described in subparagraphs (A) and (B)  
13 of this paragraph, the receipts factor shall  
14 include the amounts described in such  
15 subparagraphs.

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

22 (B) The receipts factor shall include the  
23 amount by which interest, dividends, gains and  
24 other income from trading assets and  
25 activities, including, but not limited to,  
26 assets and activities in the matched book, in

1 the arbitrage book, and foreign currency  
2 transactions, exceed amounts paid in lieu of  
3 interest, amounts paid in lieu of dividends,  
4 and losses from such assets and activities.

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

11 (A) The amount of interest, dividends, net  
12 gains (but not less than zero), and other  
13 income from investment assets and activities  
14 in the investment account to be attributed to  
15 this State and included in the numerator is  
16 determined by multiplying all such income from  
17 such assets and activities by a fraction, the  
18 numerator of which is the gross income from  
19 such assets and activities which are properly  
20 assigned to a fixed place of business of the  
21 taxpayer within this State and the denominator  
22 of which is the gross income from all such  
23 assets and activities.

24 (B) The amount of interest from federal  
25 funds sold and purchased and from securities  
26 purchased under resale agreements and

1 securities sold under repurchase agreements  
2 attributable to this State and included in the  
3 numerator is determined by multiplying the  
4 amount described in subparagraph (A) of  
5 paragraph (1) of this subsection from such  
6 funds and such securities by a fraction, the  
7 numerator of which is the gross income from  
8 such funds and such securities which are  
9 properly assigned to a fixed place of business  
10 of the taxpayer within this State and the  
11 denominator of which is the gross income from  
12 all such funds and such securities.

13 (C) The amount of interest, dividends,  
14 gains, and other income from trading assets  
15 and activities, including, but not limited to,  
16 assets and activities in the matched book, in  
17 the arbitrage book and foreign currency  
18 transactions (but excluding amounts described  
19 in subparagraphs (A) or (B) of this  
20 paragraph), attributable to this State and  
21 included in the numerator is determined by  
22 multiplying the amount described in  
23 subparagraph (B) of paragraph (1) of this  
24 subsection by a fraction, the numerator of  
25 which is the gross income from such trading  
26 assets and activities which are properly

1 assigned to a fixed place of business of the  
2 taxpayer within this State and the denominator  
3 of which is the gross income from all such  
4 assets and activities.

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

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

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

23 (iii) the taxpayer uses such records  
24 reflecting assignment of such assets or  
25 activities for the filing of all state and  
26 local tax returns for which an assignment

1 of such assets or activities to a fixed  
2 place of business is required.

3 (E) The presumption of proper assignment  
4 of an investment or trading asset or activity  
5 provided in subparagraph (D) of paragraph (2)  
6 of this subsection may be rebutted upon a  
7 showing by the Department, supported by a  
8 preponderance of the evidence, that the  
9 preponderance of substantive contacts  
10 regarding such asset or activity did not occur  
11 at the fixed place of business to which it was  
12 assigned on the taxpayer's records. If the  
13 fixed place of business that has a  
14 preponderance of substantive contacts cannot  
15 be determined for an investment or trading  
16 asset or activity to which the presumption in  
17 subparagraph (D) of paragraph (2) of this  
18 subsection does not apply or with respect to  
19 which that presumption has been rebutted, that  
20 asset or activity is properly assigned to the  
21 state in which the taxpayer's commercial  
22 domicile is located. For purposes of this  
23 subparagraph (E), it shall be presumed,  
24 subject to rebuttal, that taxpayer's  
25 commercial domicile is in the state of the  
26 United States or the District of Columbia to

1           which the greatest number of employees are  
2           regularly connected with the management of the  
3           investment or trading income or out of which  
4           they are working, irrespective of where the  
5           services of such employees are performed, as  
6           of the last day of the taxable year.

7           (4) (Blank).

8           (5) (Blank).

9           (c-1) Federally regulated exchanges. For taxable years  
10          ending on or after December 31, 2012, business income of a  
11          federally regulated exchange shall, at the option of the  
12          federally regulated exchange, be apportioned to this State by  
13          multiplying such income by a fraction, the numerator of which  
14          is its business income from sources within this State, and the  
15          denominator of which is its business income from all sources.  
16          For purposes of this subsection, the business income within  
17          this State of a federally regulated exchange is the sum of the  
18          following:

19               (1) Receipts attributable to transactions executed on  
20               a physical trading floor if that physical trading floor is  
21               located in this State.

22               (2) Receipts attributable to all other matching,  
23               execution, or clearing transactions, including without  
24               limitation receipts from the provision of matching,  
25               execution, or clearing services to another entity,  
26               multiplied by (i) for taxable years ending on or after



1 December 31, 2012 but before December 31, 2013, 63.77%;  
2 and (ii) for taxable years ending on or after December 31,  
3 2013, 27.54%.

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

8 "Federally regulated exchange" means (i) a "registered  
9 entity" within the meaning of 7 U.S.C. Section 1a(40)(A), (B),  
10 or (C), (ii) an "exchange" or "clearing agency" within the  
11 meaning of 15 U.S.C. Section 78c (a)(1) or (23), (iii) any such  
12 entities regulated under any successor regulatory structure to  
13 the foregoing, and (iv) all taxpayers who are members of the  
14 same unitary business group as a federally regulated exchange,  
15 determined without regard to the prohibition in Section  
16 1501(a)(27) of this Act against including in a unitary  
17 business group taxpayers who are ordinarily required to  
18 apportion business income under different subsections of this  
19 Section; provided that this subparagraph (iv) shall apply only  
20 if 50% or more of the business receipts of the unitary business  
21 group determined by application of this subparagraph (iv) for  
22 the taxable year are attributable to the matching, execution,  
23 or clearing of transactions conducted by an entity described  
24 in subparagraph (i), (ii), or (iii) of this paragraph.

25 In no event shall the Illinois apportionment percentage  
26 computed in accordance with this subsection (c-1) for any

1 taxpayer for any tax year be less than the Illinois  
2 apportionment percentage computed under this subsection (c-1)  
3 for that taxpayer for the first full tax year ending on or  
4 after December 31, 2013 for which this subsection (c-1)  
5 applied to the taxpayer.

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

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

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

1 transportation by railroad, and

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

5 (2) Such business income derived from transportation  
6 by pipeline shall be apportioned to this State by  
7 multiplying such income by a fraction, the numerator of  
8 which is the revenue miles of the person in this State, and  
9 the denominator of which is the revenue miles of the  
10 person everywhere. For the purposes of this paragraph, a  
11 revenue mile is the transportation by pipeline of 1 barrel  
12 of oil, 1,000 cubic feet of gas, or of any specified  
13 quantity of any other substance, the distance of 1 mile  
14 for a consideration.

15 (3) For taxable years ending on or after December 31,  
16 2008, business income derived from providing  
17 transportation services other than airline services shall  
18 be apportioned to this State by using a fraction, (a) the  
19 numerator of which shall be (i) all receipts from any  
20 movement or shipment of people, goods, mail, oil, gas, or  
21 any other substance (other than by airline) that both  
22 originates and terminates in this State, plus (ii) that  
23 portion of the person's gross receipts from movements or  
24 shipments of people, goods, mail, oil, gas, or any other  
25 substance (other than by airline) that originates in one  
26 state or jurisdiction and terminates in another state or

1 jurisdiction, that is determined by the ratio that the  
2 miles traveled in this State bears to total miles  
3 everywhere and (b) the denominator of which shall be all  
4 revenue derived from the movement or shipment of people,  
5 goods, mail, oil, gas, or any other substance (other than  
6 by airline). Where a taxpayer is engaged in the  
7 transportation of both passengers and freight, the  
8 fraction above referred to shall first be determined  
9 separately for passenger miles and freight miles. Then an  
10 average of the passenger miles fraction and the freight  
11 miles fraction shall be weighted to reflect the  
12 taxpayer's:

13 (A) relative railway operating income from total  
14 passenger and total freight service, as reported to  
15 the Surface Transportation Board, 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 (4) For taxable years ending on or after December 31,  
21 2008, business income derived from furnishing airline  
22 transportation services shall be apportioned to this State  
23 by multiplying such income by a fraction, the numerator of  
24 which is the revenue miles of the person in this State, and  
25 the denominator of which is the revenue miles of the  
26 person everywhere. For purposes of this paragraph, a

1 revenue mile is the transportation of one passenger or one  
2 net ton of freight the distance of one mile for a  
3 consideration. If a person is engaged in the  
4 transportation of both passengers and freight, the  
5 fraction above referred to shall be determined by means of  
6 an average of the passenger revenue mile fraction and the  
7 freight revenue mile fraction, weighted to reflect the  
8 person's relative gross receipts from passenger and  
9 freight airline transportation.

10 (e) Combined apportionment. Where 2 or more persons are  
11 engaged in a unitary business as described in subsection  
12 (a) (27) of Section 1501, a part of which is conducted in this  
13 State by one or more members of the group, the business income  
14 attributable to this State by any such member or members shall  
15 be apportioned by means of the combined apportionment method.

16 (f) Alternative allocation. If the allocation and  
17 apportionment provisions of subsections (a) through (e) and of  
18 subsection (h) do not, for taxable years ending before  
19 December 31, 2008, fairly represent the extent of a person's  
20 business activity in this State, or, for taxable years ending  
21 on or after December 31, 2008, fairly represent the market for  
22 the person's goods, services, or other sources of business  
23 income, the person may petition for, or the Director may,  
24 without a petition, permit or require, in respect of all or any  
25 part of the person's business activity, if reasonable:

26 (1) Separate accounting;

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

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

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

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

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

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

17 (2) for tax years ending on or after December 31, 1999  
18 and before December 31, 2000,  $8 \frac{1}{3}\%$  of the property  
19 factor plus  $8 \frac{1}{3}\%$  of the payroll factor plus  $83 \frac{1}{3}\%$  of  
20 the sales factor;

21 (3) for tax years ending on or after December 31,  
22 2000, the sales factor.

23 If, in any tax year ending on or after December 31, 1998 and  
24 before December 31, 2000, the denominator of the payroll,  
25 property, or sales factor is zero, the apportionment factor  
26 computed in paragraph (1) or (2) of this subsection for that

1 year shall be divided by an amount equal to 100% minus the  
2 percentage weight given to each factor whose denominator is  
3 equal to zero.

4 (Source: P.A. 100-201, eff. 8-18-17; 101-31, eff. 6-28-19;  
5 101-585, eff. 8-26-19; revised 9-12-19.)

6 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

7 Sec. 710. Withholding from lottery winnings.

8 (a) In general.

9 (1) Any person making a payment to a resident or  
10 nonresident of winnings under the Illinois Lottery Law and  
11 not required to withhold Illinois income tax from such  
12 payment under Subsection (b) of Section 701 of this Act  
13 because those winnings are not subject to Federal income  
14 tax withholding, must withhold Illinois income tax from  
15 such payment at a rate equal to the percentage tax rate for  
16 individuals provided in subsection (b) of Section 201,  
17 provided that withholding is not required if such payment  
18 of winnings is less than \$1,000.

19 (2) In the case of an assignment of a lottery prize  
20 under Section 13.1 of the Illinois Lottery Law, any person  
21 making a payment of the purchase price after December 31,  
22 2013, shall withhold from the amount of each payment at a  
23 rate equal to the percentage tax rate for individuals  
24 provided in subsection (b) of Section 201.

25 (3) Any person making a payment after December 31,

1           2019 to a resident or nonresident of winnings from  
2           pari-mutuel wagering conducted at a wagering facility  
3           licensed under the Illinois Horse Racing Act of 1975 or  
4           from gambling games conducted on a riverboat or in a  
5           casino or organization gaming facility licensed under the  
6           Illinois Gambling Act must withhold Illinois income tax  
7           from such payment at a rate equal to the percentage tax  
8           rate for individuals provided in subsection (b) of Section  
9           201, provided that the person making the payment is  
10          required to withhold under Section 3402(q) of the Internal  
11          Revenue Code.

12           (4) Any person making a payment after December 31,  
13           2021 to a resident or nonresident of winnings from sports  
14           wagering conducted in accordance with the Sports Wagering  
15           Act must withhold Illinois income tax from such payment at  
16           a rate equal to the percentage tax rate for individuals  
17           provided in subsection (b) of Section 201, provided that  
18           the person making the payment is required to withhold  
19           under Section 3402(q) of the Internal Revenue Code.

20           (b) Credit for taxes withheld. Any amount withheld under  
21          Subsection (a) shall be a credit against the Illinois income  
22          tax liability of the person to whom the payment of winnings was  
23          made for the taxable year in which that person incurred an  
24          Illinois income tax liability with respect to those winnings.

25          (Source: P.A. 101-31, eff. 6-28-19.)

26          Section 99. Effective date. This Act takes effect upon



1 becoming law.