

1 AN ACT in relation to budget implementation.

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

4 ARTICLE 1

5 Section 1-1. Short title. This Act may be cited as the
6 FY2005 Budget Implementation (Revenue) Act.

7 Section 1-5. Purpose. It is the purpose of this Act to
8 make changes in State programs that are necessary to implement
9 the Governor's FY2005 budget recommendations concerning
10 revenue.

11 ARTICLE 5

12 Section 5-5. The Illinois Insurance Code is amended by
13 changing Section 416 as follows:

14 (215 ILCS 5/416)

15 Sec. 416. Industrial Commission Operations Fund Surcharge.

16 (a) As of the effective date of this amendatory Act of 2004
17 ~~the 93rd General Assembly~~, every company licensed or authorized
18 by the Illinois Department of Insurance and insuring employers'
19 liabilities arising under the Workers' Compensation Act or the
20 Workers' Occupational Diseases Act shall remit to the Director
21 a surcharge based upon the annual direct written premium, as
22 reported under Section 136 of this Act, of the company in the
23 manner provided in this Section. Such proceeds shall be
24 deposited into the Industrial Commission Operations Fund as
25 established in the Workers' Compensation Act. If a company
26 survives or was formed by a merger, consolidation,
27 reorganization, or reincorporation, the direct written
28 premiums of all companies party to the merger, consolidation,

1 reorganization, or reincorporation shall, for purposes of
2 determining the amount of the fee imposed by this Section, be
3 regarded as those of the surviving or new company.

4 (b) (1) Except as provided in subsection (b) (2) of this
5 Section, beginning on the effective date of this amendatory Act
6 of 2004 and on July 1 of ~~July 1, 2004~~ and each year thereafter,
7 the Director shall charge an annual Industrial Commission
8 Operations Fund Surcharge from every company subject to
9 subsection (a) of this Section equal to 1.01% ~~1.5%~~ of its
10 direct written premium for insuring employers' liabilities
11 arising under the Workers' Compensation Act or Workers'
12 Occupational Diseases Act as reported in each company's annual
13 statement filed for the previous year as required by Section
14 136. The Industrial Commission Operations Fund Surcharge shall
15 be collected by companies subject to subsection (a) of this
16 Section as a separately stated surcharge on insured employers
17 at the rate of 1.01% ~~1.5%~~ of direct written premium. The
18 Industrial Commission Operations Fund Surcharge shall not be
19 collected by companies subject to subsection (a) of this
20 Section from any employer that self-insures its liabilities
21 arising under the Workers' Compensation Act or Workers'
22 Occupational Diseases Act, provided that the employer has paid
23 the Industrial Commission Operations Fund Fee pursuant to
24 Section 4d of the Workers' Compensation Act. All sums collected
25 by the Department of Insurance under the provisions of this
26 Section shall be paid promptly after the receipt of the same,
27 accompanied by a detailed statement thereof, into the
28 Industrial Commission Operations Fund in the State treasury.

29 (b) (2) The surcharge due pursuant to this amendatory Act of
30 2004 shall be collected instead of the surcharge due on July 1,
31 2004 under Public Act 93-32. Payment of the surcharge due under
32 this amendatory Act of 2004 shall discharge the employer's
33 obligations due on July 1, 2004. ~~Prior to July 1, 2004, the~~
34 ~~Director shall charge and collect the surcharge set forth in~~
35 ~~subparagraph (b) (1) of this Section on or before September 1,~~
36 ~~2003, December 1, 2003, March 1, 2004 and June 1, 2004. For~~

1 ~~purposes of this subsection (b) (2), the company shall remit the~~
2 ~~amounts to the Director based on estimated direct premium for~~
3 ~~each quarter beginning on July 1, 2003, together with a sworn~~
4 ~~statement attesting to the reasonableness of the estimate, and~~
5 ~~the estimated amount of direct premium written forming the~~
6 ~~bases of the remittance.~~

7 (c) In addition to the authority specifically granted under
8 Article XXV of this Code, the Director shall have such
9 authority to adopt rules or establish forms as may be
10 reasonably necessary for purposes of enforcing this Section.
11 The Director shall also have authority to defer, waive, or
12 abate the surcharge or any penalties imposed by this Section if
13 in the Director's opinion the company's solvency and ability to
14 meet its insured obligations would be immediately threatened by
15 payment of the surcharge due.

16 (d) When a company fails to pay the full amount of any
17 annual Industrial Commission Operations Fund Surcharge of \$100
18 or more due under this Section, there shall be added to the
19 amount due as a penalty the greater of \$1,000 or an amount
20 equal to 5% of the deficiency for each month or part of a month
21 that the deficiency remains unpaid.

22 (e) The Department of Insurance may enforce the collection
23 of any delinquent payment, penalty, or portion thereof by legal
24 action or in any other manner by which the collection of debts
25 due the State of Illinois may be enforced under the laws of
26 this State.

27 (f) Whenever it appears to the satisfaction of the Director
28 that a company has paid pursuant to this Act an Industrial
29 Commission Operations Fund Surcharge in an amount in excess of
30 the amount legally collectable from the company, the Director
31 shall issue a credit memorandum for an amount equal to the
32 amount of such overpayment. A credit memorandum may be applied
33 for the 2-year period from the date of issuance, against the
34 payment of any amount due during that period under the
35 surcharge imposed by this Section or, subject to reasonable
36 rule of the Department of Insurance including requirement of

1 notification, may be assigned to any other company subject to
2 regulation under this Act. Any application of credit memoranda
3 after the period provided for in this Section is void.

4 (g) Annually, the Governor may direct a transfer of up to
5 2% of all moneys collected under this Section to the Insurance
6 Financial Regulation Fund.

7 (Source: P.A. 93-32, eff. 6-20-03.)

8 Section 5-10. The Workers' Compensation Act is amended by
9 changing Section 4d as follows:

10 (820 ILCS 305/4d)

11 Sec. 4d. Industrial Commission Operations Fund Fee.

12 (a) As of the effective date of this amendatory Act of the
13 93rd General Assembly, each employer that self-insures its
14 liabilities arising under this Act or Workers' Occupational
15 Diseases Act shall pay a fee measured by the annual actual
16 wages paid in this State of such an employer in the manner
17 provided in this Section. Such proceeds shall be deposited in
18 the Industrial Commission Operations Fund. If an employer
19 survives or was formed by a merger, consolidation,
20 reorganization, or reincorporation, the actual wages paid in
21 this State of all employers party to the merger, consolidation,
22 reorganization, or reincorporation shall, for purposes of
23 determining the amount of the fee imposed by this Section, be
24 regarded as those of the surviving or new employer.

25 (b) Beginning on the effective date of this amendatory Act
26 of 2004 ~~the 93rd General Assembly~~ and on July 1 of each year
27 thereafter, the Chairman shall charge and collect an annual
28 Industrial Commission Operations Fund Fee from every employer
29 subject to subsection (a) of this Section equal to 0.0075%
30 ~~0.045%~~ of its annual actual wages paid in this State as
31 reported in each employer's annual self-insurance renewal
32 filed for the previous year as required by Section 4 of this
33 Act and Section 4 of the Workers' Occupational Diseases Act.
34 All sums collected by the Commission under the provisions of

1 this Section shall be paid promptly after the receipt of the
2 same, accompanied by a detailed statement thereof, into the
3 Industrial Commission Operations Fund. The fee due pursuant to
4 this amendatory Act of 2004 shall be collected instead of the
5 fee due on July 1, 2004 under Public Act 93-32. Payment of the
6 fee due under this amendatory Act of 2004 shall discharge the
7 employer's obligations due on July 1, 2004.

8 (c) In addition to the authority specifically granted under
9 Section 16, the Chairman shall have such authority to adopt
10 rules or establish forms as may be reasonably necessary for
11 purposes of enforcing this Section. The Commission shall have
12 authority to defer, waive, or abate the fee or any penalties
13 imposed by this Section if in the Commission's opinion the
14 employer's solvency and ability to meet its obligations to pay
15 workers' compensation benefits would be immediately threatened
16 by payment of the fee due.

17 (d) When an employer fails to pay the full amount of any
18 annual Industrial Commission Operations Fund Fee of \$100 or
19 more due under this Section, there shall be added to the amount
20 due as a penalty the greater of \$1,000 or an amount equal to 5%
21 of the deficiency for each month or part of a month that the
22 deficiency remains unpaid.

23 (e) The Commission may enforce the collection of any
24 delinquent payment, penalty or portion thereof by legal action
25 or in any other manner by which the collection of debts due the
26 State of Illinois may be enforced under the laws of this State.

27 (f) Whenever it appears to the satisfaction of the Chairman
28 that an employer has paid pursuant to this Act an Industrial
29 Commission Operations Fund Fee in an amount in excess of the
30 amount legally collectable from the employer, the Chairman
31 shall issue a credit memorandum for an amount equal to the
32 amount of such overpayment. A credit memorandum may be applied
33 for the 2-year period from the date of issuance against the
34 payment of any amount due during that period under the fee
35 imposed by this Section or, subject to reasonable rule of the
36 Commission including requirement of notification, may be

1 assigned to any other employer subject to regulation under this
2 Act. Any application of credit memoranda after the period
3 provided for in this Section is void.

4 (Source: P.A. 93-32, eff. 6-20-03.)

5 ARTICLE 10

6 Section 10-5. The Illinois Identification Card Act is
7 amended by changing Sections 2 and 12 as follows:

8 (15 ILCS 335/2) (from Ch. 124, par. 22)

9 Sec. 2. Administration and powers and duties of the
10 Administrator. (a) The Secretary of State is the Administrator
11 of this Act, and he is charged with the duty of observing,
12 administering and enforcing the provisions of this Act.

13 (b) The Secretary is vested with the powers and duties for
14 the proper administration of this Act as follows:

15 1. He shall organize the administration of this Act as he
16 may deem necessary and appoint such subordinate officers,
17 clerks and other employees as may be necessary.

18 2. From time to time, he may make, amend or rescind rules
19 and regulations as may be in the public interest to implement
20 the Act.

21 3. He may prescribe or provide suitable forms as necessary,
22 including such forms as are necessary to establish that an
23 applicant for an Illinois Disabled Person Identification Card
24 is a "disabled person" as defined in Section 4A of this Act.

25 4. He may prepare under the seal of the Secretary of State
26 certified copies of any records utilized under this Act and any
27 such certified copy shall be admissible in any proceeding in
28 any court in like manner as the original thereof.

29 5. Records compiled under this Act shall be maintained for
30 6 years, but the Secretary may destroy such records with the
31 prior approval of the State Records Commission.

32 6. He shall examine and determine the genuineness,
33 regularity and legality of every application filed with him

1 under this Act, and he may in all cases investigate the same,
2 require additional information or proof or documentation from
3 any applicant.

4 7. He shall require the payment of all fees prescribed in
5 this Act, and all such fees received by him shall be placed in
6 the Road Fund of the State treasury except as otherwise
7 provided in Section 12 of this Act.

8 (Source: P.A. 83-1421.)

9 (15 ILCS 335/12) (from Ch. 124, par. 32)

10 Sec. 12. Fees concerning Standard Illinois Identification
11 Cards. The fees required under this Act for standard Illinois
12 Identification Cards must accompany any application provided
13 for in this Act, and the Secretary shall collect such fees as
14 follows:

15	a. Original card <u>issued on or before</u>	
16	<u>December 31, 2004</u>	\$4
17	<u>Original card issued on or after</u>	
18	<u>January 1, 2005</u>	<u>\$20</u>
19	b. Renewal card <u>issued on or before</u>	
20	<u>December 31, 2004</u>	4
21	<u>Renewal card issued on or after</u>	
22	<u>January 1, 2005</u>	<u>20</u>
23	c. Corrected card <u>issued on or before</u>	
24	<u>December 31, 2004</u>	2
25	<u>Corrected card issued on or after</u>	
26	<u>January 1, 2005</u>	<u>10</u>
27	d. Duplicate card <u>issued on or before</u>	
28	<u>December 31, 2004</u>	4
29	<u>Duplicate card issued on or after</u>	
30	<u>January 1, 2005</u>	<u>20</u>
31	e. Certified copy with seal	5
32	f. Search	2
33	g. Applicant 65 years of age or over	No Fee
34	h. Disabled applicant	No Fee
35	i. Individual living in Veterans	

1 Home or Hospital No Fee

2 All fees collected under this Act shall be paid into the
3 Road Fund of the State treasury, except that the following
4 amounts shall be paid into the General Revenue Fund: (i) \$16 of
5 the \$20 fee for an original, renewal, or duplicate Illinois
6 Identification Card issued on or after January 1, 2005; and
7 (ii) \$8 of the \$10 fee for a corrected Illinois Identification
8 Card issued on or after January 1, 2005.

9 Any disabled person making an application for a standard
10 Illinois Identification Card for no fee must, along with the
11 application, submit an affirmation by the applicant on a form
12 to be provided by the Secretary of State, attesting that such
13 person is a disabled person as defined in Section 4A of this
14 Act.

15 An individual, who resides in a veterans home or veterans
16 hospital operated by the state or federal government, who makes
17 an application for an Illinois Identification Card to be issued
18 at no fee, must submit, along with the application, an
19 affirmation by the applicant on a form provided by the
20 Secretary of State, that such person resides in a veterans home
21 or veterans hospital operated by the state or federal
22 government.

23 (Source: P.A. 83-1528.)

24 Section 10-10. The Illinois Lottery Law is amended by
25 changing Section 10.2 as follows:

26 (20 ILCS 1605/10.2) (from Ch. 120, par. 1160.2)

27 Sec. 10.2. Application and other fees. Each application
28 for a new lottery license must be accompanied by a one-time
29 application fee of \$50; the Department, however, may waive the
30 fee for licenses of limited duration as provided by Department
31 rule. Each application for renewal of a lottery license must be
32 accompanied by a renewal fee of \$25. Each lottery licensee
33 granted on-line status pursuant to the Department's rules must
34 pay a fee of \$10 per week as partial reimbursement for

1 telecommunications charges incurred by the Department in
2 providing access to the lottery's on-line gaming system. The
3 Department, by rule, may increase or decrease the amount of
4 these fees. The Department may charge an application fee except
5 that such fee shall not exceed \$10.00 per annum.

6 (Source: P.A. 81-477.)

7 ARTICLE 15

8 Section 15-1. Short title. This Article may be cited as the
9 Watercraft Use Tax Law, and references in this Article to "this
10 Law" mean this Article.

11 Section 15-5. Definitions. For the purposes of this Law:

12 "Department" means the Department of Revenue.

13 "Purchase price" means the reasonable consideration paid
14 for a watercraft whether received in money or otherwise,
15 including, but not limited to, cash, credits, property, and
16 services, and including the value of any motor sold with, or in
17 conjunction with, the watercraft. Except in the case of
18 transfers between immediate family members, reasonable
19 consideration ordinarily means the fair market value on the
20 date the watercraft or the share of the watercraft was acquired
21 or the date the watercraft was brought into this State,
22 whichever is later, unless the taxpayer can demonstrate that a
23 different value is reasonable. In the case of transfers between
24 immediate family members, reasonable consideration ordinarily
25 means the consideration actually paid, unless it appears from
26 the facts and circumstances that the primary motivation of the
27 transfer was the avoidance of tax.

28 "Watercraft" means:

29 (1) Class 2, Class 3, and Class 4 watercraft, as
30 defined in Section 3-2 of the Boat Registration and Safety
31 Act; or

32 (2) personal watercraft, as defined in Section 1-2 of
33 the Boat Registration and Safety Act.

1 Section 15-10. Tax imposed. A tax is hereby imposed on the
2 privilege of using, in this State, any watercraft acquired by
3 gift, transfer, or purchase after September 1, 2004. This tax
4 does not apply if: (i) the use of the watercraft is otherwise
5 taxed under the Use Tax Act; (ii) the watercraft is bought and
6 used by a governmental agency or a society, association,
7 foundation, or institution organized and operated exclusively
8 for charitable, religious, or educational purposes and that
9 entity has been issued an exemption identification number under
10 Section 1g of the Retailers' Occupation Tax Act; (iii) the use
11 of the watercraft is not subject to the Use Tax Act by reason
12 of subsection (a), (b), (c), (d), or (e) of Section 3-55 of
13 that Act dealing with the prevention of actual or likely
14 multi-state taxation; (iv) the transfer is a gift to a
15 beneficiary in the administration of an estate and the
16 beneficiary is a surviving spouse; or (v) the watercraft is
17 exempted from the numbering provisions of Section 3-12 of the
18 Boat Registration and Safety Act. However, the exemption from
19 tax provided by item (v) shall not apply to a watercraft
20 exempted under paragraphs A, B, C, F, and G of Section 3-12 of
21 the Boat Registration and Safety Act if such watercraft are
22 used upon the waters of this State for more than 30 days in any
23 calendar year.

24 Section 15-15. Rate of tax.

25 The rate of tax is 6.25% of the purchase price for each
26 purchase of watercraft that is subject to tax under this Law.
27 When an ownership share of a watercraft is acquired, the tax is
28 imposed on the purchase price of that share. All owners are
29 jointly and severally liable for any tax due as a result of the
30 purchase, gift, or transfer of an ownership share of the
31 watercraft.

32 Section 15-20. Returns.

33 (a) The purchaser, transferee, or donee shall file with the

1 Department a return signed by the purchaser, transferee, or
2 donee on a form prescribed by the Department. The return shall
3 contain a verification in substantially the following form and
4 such other information as the Department may reasonably
5 require:

6 VERIFICATION

7 I declare that I have examined this return and, to the best
8 of my knowledge, it is true, correct, and complete. I
9 understand that the penalty for willfully filing a false
10 return is a fine not to exceed \$1,000 or imprisonment in a
11 penal institution other than the penitentiary not to exceed
12 one year, or both a fine and imprisonment.

13 (b) The return and payment from the purchaser, transferee,
14 or donee shall be submitted to the Department within 30 days
15 after the date of purchase, donation, or other transfer or the
16 date the watercraft is brought into this State, whichever is
17 later. Payment of tax is a condition to securing certificate of
18 title for the watercraft from the Department of Natural
19 Resources. When a purchaser, transferee, or donee pays the tax
20 imposed by Section 5-10 of this Law, the Department (upon
21 request therefor from the purchaser, transferee, or donee)
22 shall issue an appropriate receipt to the purchaser,
23 transferee, or donee showing that he or she has paid the tax to
24 the Department. The receipt shall be sufficient to relieve the
25 purchaser, transferee, or donee from further liability for the
26 tax to which the receipt may refer.

27 Section 15-25. Filing false or incomplete return. Any
28 person required to file a return under this Law who willfully
29 files a false or incomplete return is guilty of a Class A
30 misdemeanor.

31 Section 15-30. Determining purchase price. For the purpose
32 of assisting in determining the validity of the purchase price
33 reported on returns filed with the Department, the Department
34 may furnish the following information to persons with whom the

1 Department has contracted for service related to making that
2 determination: (i) the purchase price stated on the return;
3 (ii) the watercraft identification number; (iii) the year, the
4 make, and the model name or number of the watercraft; (iv) the
5 purchase date; and (v) the hours of operation.

6 Section 15-35. Powers of Department. The Department has
7 full power to: (i) administer and enforce this Law; (ii)
8 collect all taxes, penalties, and interest due under this Law;
9 (iii) dispose of taxes, penalties, and interest so collected in
10 the manner set forth in this Law; and (iv) determine all rights
11 to credit memoranda or refunds arising on account of the
12 erroneous payment of tax, penalty, or interest under this Law.
13 In the administration of, and compliance with, this Law, the
14 Department and persons who are subject to this Law have the
15 same rights, remedies, privileges, immunities, powers, and
16 duties, and are subject to the same conditions, restrictions,
17 limitations, penalties, and definitions of terms, and employ
18 the same modes of procedure, as are prescribed in the Use Tax
19 Act (except for the provisions of Section 3-70), that are not
20 inconsistent with this Law, as fully as if the provisions of
21 the Use Tax Act were set forth in this Law. In addition to any
22 other penalties imposed under law, any person convicted of
23 violating the provisions of this Law shall be assessed a fine
24 of \$1,000.

25 Section 15-40. Payments to State and Local Sales Tax Reform
26 Fund and General Revenue Fund. The Department shall each month,
27 upon collecting any taxes as provided in this Law, pay 20% of
28 the money collected into the State and Local Sales Tax Reform
29 Fund, a special fund in the State treasury, and 80% into the
30 General Revenue Fund.

31 Section 15-45. Rules. The Department has the authority to
32 adopt such rules as are reasonable and necessary to implement
33 the provisions of this Law.

1 Section 15-990. The Retailers' Occupation Tax Act is
2 amended by changing Section 1c as follows:

3 (35 ILCS 120/1c) (from Ch. 120, par. 440c)

4 Sec. 1c. A person who is engaged in the business of leasing
5 or renting motor vehicles or, beginning July 1, 2003, aircraft
6 or, beginning September 1, 2004, watercraft to others and who,
7 in connection with such business sells any used motor vehicle,
8 ~~or~~ aircraft, or watercraft to a purchaser for his use and not
9 for the purpose of resale, is a retailer engaged in the
10 business of selling tangible personal property at retail under
11 this Act to the extent of the value of the motor vehicle, ~~or~~
12 aircraft, or watercraft sold. For the purpose of this Section
13 "motor vehicle" has the meaning prescribed in Section 1-157 of
14 the Illinois Vehicle Code, as now or hereafter amended. For the
15 purpose of this Section "aircraft" has the meaning prescribed
16 in Section 3 of the Illinois Aeronautics Act. For the purpose
17 of this Section, "watercraft" has the meaning prescribed in
18 Section 5-5 of the Watercraft Use Tax Law. (Nothing provided
19 herein shall affect liability incurred under this Act because
20 of the sale at retail of such motor vehicles, ~~or~~ aircraft, or
21 watercraft to a lessor.)

22 (Source: P.A. 93-24, eff. 6-20-03.)

23 Section 15-995. The Boat Registration and Safety Act is
24 amended by changing Section 3A-5 as follows:

25 (625 ILCS 45/3A-5) (from Ch. 95 1/2, par. 313A-5)

26 Sec. 3A-5. Certificate of title - Issuance - Records.

27 (a) The Department of Natural Resources shall file each
28 application received and, when satisfied as to its genuineness
29 and regularity, and that no tax imposed by the "Use Tax Act" or
30 the Watercraft Use Tax Law is owed as evidenced by the receipt
31 for payment or determination of exemption from the Department
32 of Revenue provided for in Section 3A-3 of this Article, and

1 that the applicant is entitled to the issuance of a certificate
2 of title, shall issue a certificate of title.

3 (b) The Department of Natural Resources shall maintain a
4 record of all certificates of title issued under a distinctive
5 title number assigned to the watercraft and, in the discretion
6 of the Department, in any other method determined.

7 (Source: P.A. 89-445, eff. 2-7-96.)

8 ARTICLE 20

9 Section 20-10. The Use Tax Act is amended by changing
10 Sections 3-5 and 3-85 as follows:

11 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

12 Sec. 3-5. Exemptions. Use of the following tangible
13 personal property is exempt from the tax imposed by this Act:

14 (1) Personal property purchased from a corporation,
15 society, association, foundation, institution, or
16 organization, other than a limited liability company, that is
17 organized and operated as a not-for-profit service enterprise
18 for the benefit of persons 65 years of age or older if the
19 personal property was not purchased by the enterprise for the
20 purpose of resale by the enterprise.

21 (2) Personal property purchased by a not-for-profit
22 Illinois county fair association for use in conducting,
23 operating, or promoting the county fair.

24 (3) Personal property purchased by a not-for-profit arts or
25 cultural organization that establishes, by proof required by
26 the Department by rule, that it has received an exemption under
27 Section 501(c)(3) of the Internal Revenue Code and that is
28 organized and operated primarily for the presentation or
29 support of arts or cultural programming, activities, or
30 services. These organizations include, but are not limited to,
31 music and dramatic arts organizations such as symphony
32 orchestras and theatrical groups, arts and cultural service
33 organizations, local arts councils, visual arts organizations,

1 and media arts organizations. On and after the effective date
2 of this amendatory Act of the 92nd General Assembly, however,
3 an entity otherwise eligible for this exemption shall not make
4 tax-free purchases unless it has an active identification
5 number issued by the Department.

6 (4) Personal property purchased by a governmental body, by
7 a corporation, society, association, foundation, or
8 institution organized and operated exclusively for charitable,
9 religious, or educational purposes, or by a not-for-profit
10 corporation, society, association, foundation, institution, or
11 organization that has no compensated officers or employees and
12 that is organized and operated primarily for the recreation of
13 persons 55 years of age or older. A limited liability company
14 may qualify for the exemption under this paragraph only if the
15 limited liability company is organized and operated
16 exclusively for educational purposes. On and after July 1,
17 1987, however, no entity otherwise eligible for this exemption
18 shall make tax-free purchases unless it has an active exemption
19 identification number issued by the Department.

20 (5) Until July 1, 2003, a passenger car that is a
21 replacement vehicle to the extent that the purchase price of
22 the car is subject to the Replacement Vehicle Tax.

23 (6) Until July 1, 2003 and beginning again on September 1,
24 2004, graphic arts machinery and equipment, including repair
25 and replacement parts, both new and used, and including that
26 manufactured on special order, certified by the purchaser to be
27 used primarily for graphic arts production, and including
28 machinery and equipment purchased for lease. Equipment
29 includes chemicals or chemicals acting as catalysts but only if
30 the chemicals or chemicals acting as catalysts effect a direct
31 and immediate change upon a graphic arts product.

32 (7) Farm chemicals.

33 (8) Legal tender, currency, medallions, or gold or silver
34 coinage issued by the State of Illinois, the government of the
35 United States of America, or the government of any foreign
36 country, and bullion.

1 (9) Personal property purchased from a teacher-sponsored
2 student organization affiliated with an elementary or
3 secondary school located in Illinois.

4 (10) A motor vehicle of the first division, a motor vehicle
5 of the second division that is a self-contained motor vehicle
6 designed or permanently converted to provide living quarters
7 for recreational, camping, or travel use, with direct walk
8 through to the living quarters from the driver's seat, or a
9 motor vehicle of the second division that is of the van
10 configuration designed for the transportation of not less than
11 7 nor more than 16 passengers, as defined in Section 1-146 of
12 the Illinois Vehicle Code, that is used for automobile renting,
13 as defined in the Automobile Renting Occupation and Use Tax
14 Act.

15 (11) Farm machinery and equipment, both new and used,
16 including that manufactured on special order, certified by the
17 purchaser to be used primarily for production agriculture or
18 State or federal agricultural programs, including individual
19 replacement parts for the machinery and equipment, including
20 machinery and equipment purchased for lease, and including
21 implements of husbandry defined in Section 1-130 of the
22 Illinois Vehicle Code, farm machinery and agricultural
23 chemical and fertilizer spreaders, and nurse wagons required to
24 be registered under Section 3-809 of the Illinois Vehicle Code,
25 but excluding other motor vehicles required to be registered
26 under the Illinois Vehicle Code. Horticultural polyhouses or
27 hoop houses used for propagating, growing, or overwintering
28 plants shall be considered farm machinery and equipment under
29 this item (11). Agricultural chemical tender tanks and dry
30 boxes shall include units sold separately from a motor vehicle
31 required to be licensed and units sold mounted on a motor
32 vehicle required to be licensed if the selling price of the
33 tender is separately stated.

34 Farm machinery and equipment shall include precision
35 farming equipment that is installed or purchased to be
36 installed on farm machinery and equipment including, but not

1 limited to, tractors, harvesters, sprayers, planters, seeders,
2 or spreaders. Precision farming equipment includes, but is not
3 limited to, soil testing sensors, computers, monitors,
4 software, global positioning and mapping systems, and other
5 such equipment.

6 Farm machinery and equipment also includes computers,
7 sensors, software, and related equipment used primarily in the
8 computer-assisted operation of production agriculture
9 facilities, equipment, and activities such as, but not limited
10 to, the collection, monitoring, and correlation of animal and
11 crop data for the purpose of formulating animal diets and
12 agricultural chemicals. This item (11) is exempt from the
13 provisions of Section 3-90.

14 (12) Fuel and petroleum products sold to or used by an air
15 common carrier, certified by the carrier to be used for
16 consumption, shipment, or storage in the conduct of its
17 business as an air common carrier, for a flight destined for or
18 returning from a location or locations outside the United
19 States without regard to previous or subsequent domestic
20 stopovers.

21 (13) Proceeds of mandatory service charges separately
22 stated on customers' bills for the purchase and consumption of
23 food and beverages purchased at retail from a retailer, to the
24 extent that the proceeds of the service charge are in fact
25 turned over as tips or as a substitute for tips to the
26 employees who participate directly in preparing, serving,
27 hosting or cleaning up the food or beverage function with
28 respect to which the service charge is imposed.

29 (14) Until July 1, 2003, oil field exploration, drilling,
30 and production equipment, including (i) rigs and parts of rigs,
31 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
32 tubular goods, including casing and drill strings, (iii) pumps
33 and pump-jack units, (iv) storage tanks and flow lines, (v) any
34 individual replacement part for oil field exploration,
35 drilling, and production equipment, and (vi) machinery and
36 equipment purchased for lease; but excluding motor vehicles

1 required to be registered under the Illinois Vehicle Code.

2 (15) Photoprocessing machinery and equipment, including
3 repair and replacement parts, both new and used, including that
4 manufactured on special order, certified by the purchaser to be
5 used primarily for photoprocessing, and including
6 photoprocessing machinery and equipment purchased for lease.

7 (16) Until July 1, 2003, coal exploration, mining,
8 offhighway hauling, processing, maintenance, and reclamation
9 equipment, including replacement parts and equipment, and
10 including equipment purchased for lease, but excluding motor
11 vehicles required to be registered under the Illinois Vehicle
12 Code.

13 (17) Until July 1, 2003, distillation machinery and
14 equipment, sold as a unit or kit, assembled or installed by the
15 retailer, certified by the user to be used only for the
16 production of ethyl alcohol that will be used for consumption
17 as motor fuel or as a component of motor fuel for the personal
18 use of the user, and not subject to sale or resale.

19 (18) Manufacturing and assembling machinery and equipment
20 used primarily in the process of manufacturing or assembling
21 tangible personal property for wholesale or retail sale or
22 lease, whether that sale or lease is made directly by the
23 manufacturer or by some other person, whether the materials
24 used in the process are owned by the manufacturer or some other
25 person, or whether that sale or lease is made apart from or as
26 an incident to the seller's engaging in the service occupation
27 of producing machines, tools, dies, jigs, patterns, gauges, or
28 other similar items of no commercial value on special order for
29 a particular purchaser.

30 (19) Personal property delivered to a purchaser or
31 purchaser's donee inside Illinois when the purchase order for
32 that personal property was received by a florist located
33 outside Illinois who has a florist located inside Illinois
34 deliver the personal property.

35 (20) Semen used for artificial insemination of livestock
36 for direct agricultural production.

1 (21) Horses, or interests in horses, registered with and
2 meeting the requirements of any of the Arabian Horse Club
3 Registry of America, Appaloosa Horse Club, American Quarter
4 Horse Association, United States Trotting Association, or
5 Jockey Club, as appropriate, used for purposes of breeding or
6 racing for prizes.

7 (22) Computers and communications equipment utilized for
8 any hospital purpose and equipment used in the diagnosis,
9 analysis, or treatment of hospital patients purchased by a
10 lessor who leases the equipment, under a lease of one year or
11 longer executed or in effect at the time the lessor would
12 otherwise be subject to the tax imposed by this Act, to a
13 hospital that has been issued an active tax exemption
14 identification number by the Department under Section 1g of the
15 Retailers' Occupation Tax Act. If the equipment is leased in a
16 manner that does not qualify for this exemption or is used in
17 any other non-exempt manner, the lessor shall be liable for the
18 tax imposed under this Act or the Service Use Tax Act, as the
19 case may be, based on the fair market value of the property at
20 the time the non-qualifying use occurs. No lessor shall collect
21 or attempt to collect an amount (however designated) that
22 purports to reimburse that lessor for the tax imposed by this
23 Act or the Service Use Tax Act, as the case may be, if the tax
24 has not been paid by the lessor. If a lessor improperly
25 collects any such amount from the lessee, the lessee shall have
26 a legal right to claim a refund of that amount from the lessor.
27 If, however, that amount is not refunded to the lessee for any
28 reason, the lessor is liable to pay that amount to the
29 Department.

30 (23) Personal property purchased by a lessor who leases the
31 property, under a lease of one year or longer executed or in
32 effect at the time the lessor would otherwise be subject to the
33 tax imposed by this Act, to a governmental body that has been
34 issued an active sales tax exemption identification number by
35 the Department under Section 1g of the Retailers' Occupation
36 Tax Act. If the property is leased in a manner that does not

1 qualify for this exemption or used in any other non-exempt
2 manner, the lessor shall be liable for the tax imposed under
3 this Act or the Service Use Tax Act, as the case may be, based
4 on the fair market value of the property at the time the
5 non-qualifying use occurs. No lessor shall collect or attempt
6 to collect an amount (however designated) that purports to
7 reimburse that lessor for the tax imposed by this Act or the
8 Service Use Tax Act, as the case may be, if the tax has not been
9 paid by the lessor. If a lessor improperly collects any such
10 amount from the lessee, the lessee shall have a legal right to
11 claim a refund of that amount from the lessor. If, however,
12 that amount is not refunded to the lessee for any reason, the
13 lessor is liable to pay that amount to the Department.

14 (24) Beginning with taxable years ending on or after
15 December 31, 1995 and ending with taxable years ending on or
16 before December 31, 2004, personal property that is donated for
17 disaster relief to be used in a State or federally declared
18 disaster area in Illinois or bordering Illinois by a
19 manufacturer or retailer that is registered in this State to a
20 corporation, society, association, foundation, or institution
21 that has been issued a sales tax exemption identification
22 number by the Department that assists victims of the disaster
23 who reside within the declared disaster area.

24 (25) Beginning with taxable years ending on or after
25 December 31, 1995 and ending with taxable years ending on or
26 before December 31, 2004, personal property that is used in the
27 performance of infrastructure repairs in this State, including
28 but not limited to municipal roads and streets, access roads,
29 bridges, sidewalks, waste disposal systems, water and sewer
30 line extensions, water distribution and purification
31 facilities, storm water drainage and retention facilities, and
32 sewage treatment facilities, resulting from a State or
33 federally declared disaster in Illinois or bordering Illinois
34 when such repairs are initiated on facilities located in the
35 declared disaster area within 6 months after the disaster.

36 (26) Beginning July 1, 1999, game or game birds purchased

1 at a "game breeding and hunting preserve area" or an "exotic
2 game hunting area" as those terms are used in the Wildlife Code
3 or at a hunting enclosure approved through rules adopted by the
4 Department of Natural Resources. This paragraph is exempt from
5 the provisions of Section 3-90.

6 (27) A motor vehicle, as that term is defined in Section
7 1-146 of the Illinois Vehicle Code, that is donated to a
8 corporation, limited liability company, society, association,
9 foundation, or institution that is determined by the Department
10 to be organized and operated exclusively for educational
11 purposes. For purposes of this exemption, "a corporation,
12 limited liability company, society, association, foundation,
13 or institution organized and operated exclusively for
14 educational purposes" means all tax-supported public schools,
15 private schools that offer systematic instruction in useful
16 branches of learning by methods common to public schools and
17 that compare favorably in their scope and intensity with the
18 course of study presented in tax-supported schools, and
19 vocational or technical schools or institutes organized and
20 operated exclusively to provide a course of study of not less
21 than 6 weeks duration and designed to prepare individuals to
22 follow a trade or to pursue a manual, technical, mechanical,
23 industrial, business, or commercial occupation.

24 (28) Beginning January 1, 2000, personal property,
25 including food, purchased through fundraising events for the
26 benefit of a public or private elementary or secondary school,
27 a group of those schools, or one or more school districts if
28 the events are sponsored by an entity recognized by the school
29 district that consists primarily of volunteers and includes
30 parents and teachers of the school children. This paragraph
31 does not apply to fundraising events (i) for the benefit of
32 private home instruction or (ii) for which the fundraising
33 entity purchases the personal property sold at the events from
34 another individual or entity that sold the property for the
35 purpose of resale by the fundraising entity and that profits
36 from the sale to the fundraising entity. This paragraph is

1 exempt from the provisions of Section 3-90.

2 (29) Beginning January 1, 2000 and through December 31,
3 2001, new or used automatic vending machines that prepare and
4 serve hot food and beverages, including coffee, soup, and other
5 items, and replacement parts for these machines. Beginning
6 January 1, 2002 and through June 30, 2003, machines and parts
7 for machines used in commercial, coin-operated amusement and
8 vending business if a use or occupation tax is paid on the
9 gross receipts derived from the use of the commercial,
10 coin-operated amusement and vending machines. This paragraph
11 is exempt from the provisions of Section 3-90.

12 (30) Food for human consumption that is to be consumed off
13 the premises where it is sold (other than alcoholic beverages,
14 soft drinks, and food that has been prepared for immediate
15 consumption) and prescription and nonprescription medicines,
16 drugs, medical appliances, and insulin, urine testing
17 materials, syringes, and needles used by diabetics, for human
18 use, when purchased for use by a person receiving medical
19 assistance under Article 5 of the Illinois Public Aid Code who
20 resides in a licensed long-term care facility, as defined in
21 the Nursing Home Care Act.

22 (31) Beginning on the effective date of this amendatory Act
23 of the 92nd General Assembly, computers and communications
24 equipment utilized for any hospital purpose and equipment used
25 in the diagnosis, analysis, or treatment of hospital patients
26 purchased by a lessor who leases the equipment, under a lease
27 of one year or longer executed or in effect at the time the
28 lessor would otherwise be subject to the tax imposed by this
29 Act, to a hospital that has been issued an active tax exemption
30 identification number by the Department under Section 1g of the
31 Retailers' Occupation Tax Act. If the equipment is leased in a
32 manner that does not qualify for this exemption or is used in
33 any other nonexempt manner, the lessor shall be liable for the
34 tax imposed under this Act or the Service Use Tax Act, as the
35 case may be, based on the fair market value of the property at
36 the time the nonqualifying use occurs. No lessor shall collect

1 or attempt to collect an amount (however designated) that
2 purports to reimburse that lessor for the tax imposed by this
3 Act or the Service Use Tax Act, as the case may be, if the tax
4 has not been paid by the lessor. If a lessor improperly
5 collects any such amount from the lessee, the lessee shall have
6 a legal right to claim a refund of that amount from the lessor.
7 If, however, that amount is not refunded to the lessee for any
8 reason, the lessor is liable to pay that amount to the
9 Department. This paragraph is exempt from the provisions of
10 Section 3-90.

11 (32) Beginning on the effective date of this amendatory Act
12 of the 92nd General Assembly, personal property purchased by a
13 lessor who leases the property, under a lease of one year or
14 longer executed or in effect at the time the lessor would
15 otherwise be subject to the tax imposed by this Act, to a
16 governmental body that has been issued an active sales tax
17 exemption identification number by the Department under
18 Section 1g of the Retailers' Occupation Tax Act. If the
19 property is leased in a manner that does not qualify for this
20 exemption or used in any other nonexempt manner, the lessor
21 shall be liable for the tax imposed under this Act or the
22 Service Use Tax Act, as the case may be, based on the fair
23 market value of the property at the time the nonqualifying use
24 occurs. No lessor shall collect or attempt to collect an amount
25 (however designated) that purports to reimburse that lessor for
26 the tax imposed by this Act or the Service Use Tax Act, as the
27 case may be, if the tax has not been paid by the lessor. If a
28 lessor improperly collects any such amount from the lessee, the
29 lessee shall have a legal right to claim a refund of that
30 amount from the lessor. If, however, that amount is not
31 refunded to the lessee for any reason, the lessor is liable to
32 pay that amount to the Department. This paragraph is exempt
33 from the provisions of Section 3-90.

34 (33) On and after July 1, 2003, the use in this State of
35 motor vehicles of the second division with a gross vehicle
36 weight in excess of 8,000 pounds and that are subject to the

1 commercial distribution fee imposed under Section 3-815.1 of
2 the Illinois Vehicle Code. This exemption applies to repair and
3 replacement parts added after the initial purchase of such a
4 motor vehicle if that motor vehicle is used in a manner that
5 would qualify for the rolling stock exemption otherwise
6 provided for in this Act.

7 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
8 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
9 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised 9-11-03.)

10 (35 ILCS 105/3-85)

11 Sec. 3-85. Manufacturer's Purchase Credit. For purchases
12 of machinery and equipment made on and after January 1, 1995
13 ~~and~~ through June 30, 2003, and on and after September 1, 2004,
14 a purchaser of manufacturing machinery and equipment that
15 qualifies for the exemption provided by paragraph (18) of
16 Section 3-5 of this Act earns a credit in an amount equal to a
17 fixed percentage of the tax which would have been incurred
18 under this Act on those purchases. For purchases of graphic
19 arts machinery and equipment made on or after July 1, 1996 and
20 through June 30, 2003, and on and after September 1, 2004, a
21 purchaser of graphic arts machinery and equipment that
22 qualifies for the exemption provided by paragraph (6) of
23 Section 3-5 of this Act earns a credit in an amount equal to a
24 fixed percentage of the tax that would have been incurred under
25 this Act on those purchases. The credit earned for purchases of
26 manufacturing machinery and equipment or graphic arts
27 machinery and equipment shall be referred to as the
28 Manufacturer's Purchase Credit. A graphic arts producer is a
29 person engaged in graphic arts production as defined in Section
30 2-30 of the Retailers' Occupation Tax Act. Beginning July 1,
31 1996, all references in this Section to manufacturers or
32 manufacturing shall also be deemed to refer to graphic arts
33 producers or graphic arts production.

34 The amount of credit shall be a percentage of the tax that
35 would have been incurred on the purchase of manufacturing

1 machinery and equipment or graphic arts machinery and equipment
2 if the exemptions provided by paragraph (6) or paragraph (18)
3 of Section 3-5 of this Act had not been applicable. The
4 percentage shall be as follows:

5 (1) 15% for purchases made on or before June 30, 1995.

6 (2) 25% for purchases made after June 30, 1995, and on
7 or before June 30, 1996.

8 (3) 40% for purchases made after June 30, 1996, and on
9 or before June 30, 1997.

10 (4) 50% for purchases made on or after July 1, 1997.

11 (a) Manufacturer's Purchase Credit earned prior to July 1,
12 2003. This subsection (a) applies to Manufacturer's Purchase
13 Credit earned prior to July 1, 2003. A purchaser of production
14 related tangible personal property desiring to use the
15 Manufacturer's Purchase Credit shall certify to the seller
16 prior to October 1, 2003 that the purchaser is satisfying all
17 or part of the liability under the Use Tax Act or the Service
18 Use Tax Act that is due on the purchase of the production
19 related tangible personal property by use of Manufacturer's
20 Purchase Credit. The Manufacturer's Purchase Credit
21 certification must be dated and shall include the name and
22 address of the purchaser, the purchaser's registration number,
23 if registered, the credit being applied, and a statement that
24 the State Use Tax or Service Use Tax liability is being
25 satisfied with the manufacturer's or graphic arts producer's
26 accumulated purchase credit. Certification may be incorporated
27 into the manufacturer's or graphic arts producer's purchase
28 order. Manufacturer's Purchase Credit certification provided
29 by the manufacturer or graphic arts producer prior to October
30 1, 2003 may be used to satisfy the retailer's or serviceman's
31 liability under the Retailers' Occupation Tax Act or Service
32 Occupation Tax Act for the credit claimed, not to exceed 6.25%
33 of the receipts subject to tax from a qualifying purchase, but
34 only if the retailer or serviceman reports the Manufacturer's
35 Purchase Credit claimed as required by the Department. A
36 Manufacturer's Purchase Credit reported on any original or

1 amended return filed under this Act after October 20, 2003
2 shall be disallowed. The Manufacturer's Purchase Credit earned
3 by purchase of exempt manufacturing machinery and equipment or
4 graphic arts machinery and equipment is a non-transferable
5 credit. A manufacturer or graphic arts producer that enters
6 into a contract involving the installation of tangible personal
7 property into real estate within a manufacturing or graphic
8 arts production facility may, prior to October 1, 2003,
9 authorize a construction contractor to utilize credit
10 accumulated by the manufacturer or graphic arts producer to
11 purchase the tangible personal property. A manufacturer or
12 graphic arts producer intending to use accumulated credit to
13 purchase such tangible personal property shall execute a
14 written contract authorizing the contractor to utilize a
15 specified dollar amount of credit. The contractor shall
16 furnish, prior to October 1, 2003, the supplier with the
17 manufacturer's or graphic arts producer's name, registration
18 or resale number, and a statement that a specific amount of the
19 Use Tax or Service Use Tax liability, not to exceed 6.25% of
20 the selling price, is being satisfied with the credit. The
21 manufacturer or graphic arts producer shall remain liable to
22 timely report all information required by the annual Report of
23 Manufacturer's Purchase Credit Used for all credit utilized by
24 a construction contractor.

25 No Manufacturer's Purchase Credit earned prior to July 1,
26 2003 may be used after October 1, 2003. The Manufacturer's
27 Purchase Credit may be used to satisfy liability under the Use
28 Tax Act or the Service Use Tax Act due on the purchase of
29 production related tangible personal property (including
30 purchases by a manufacturer, by a graphic arts producer, or by
31 a lessor who rents or leases the use of the property to a
32 manufacturer or graphic arts producer) that does not otherwise
33 qualify for the manufacturing machinery and equipment
34 exemption or the graphic arts machinery and equipment
35 exemption. "Production related tangible personal property"
36 means (i) all tangible personal property used or consumed by

1 the purchaser in a manufacturing facility in which a
2 manufacturing process described in Section 2-45 of the
3 Retailers' Occupation Tax Act takes place, including tangible
4 personal property purchased for incorporation into real estate
5 within a manufacturing facility and including, but not limited
6 to, tangible personal property used or consumed in activities
7 such as preproduction material handling, receiving, quality
8 control, inventory control, storage, staging, and packaging
9 for shipping and transportation purposes; (ii) all tangible
10 personal property used or consumed by the purchaser in a
11 graphic arts facility in which graphic arts production as
12 described in Section 2-30 of the Retailers' Occupation Tax Act
13 takes place, including tangible personal property purchased
14 for incorporation into real estate within a graphic arts
15 facility and including, but not limited to, all tangible
16 personal property used or consumed in activities such as
17 graphic arts preliminary or pre-press production,
18 pre-production material handling, receiving, quality control,
19 inventory control, storage, staging, sorting, labeling,
20 mailing, tying, wrapping, and packaging; and (iii) all tangible
21 personal property used or consumed by the purchaser for
22 research and development. "Production related tangible
23 personal property" does not include (i) tangible personal
24 property used, within or without a manufacturing facility, in
25 sales, purchasing, accounting, fiscal management, marketing,
26 personnel recruitment or selection, or landscaping or (ii)
27 tangible personal property required to be titled or registered
28 with a department, agency, or unit of federal, state, or local
29 government. The Manufacturer's Purchase Credit may be used,
30 prior to October 1, 2003, to satisfy the tax arising either
31 from the purchase of machinery and equipment on or after
32 January 1, 1995 for which the exemption provided by paragraph
33 (18) of Section 3-5 of this Act was erroneously claimed, or the
34 purchase of machinery and equipment on or after July 1, 1996
35 for which the exemption provided by paragraph (6) of Section
36 3-5 of this Act was erroneously claimed, but not in

1 satisfaction of penalty, if any, and interest for failure to
2 pay the tax when due. A purchaser of production related
3 tangible personal property who is required to pay Illinois Use
4 Tax or Service Use Tax on the purchase directly to the
5 Department may, prior to October 1, 2003, utilize the
6 Manufacturer's Purchase Credit in satisfaction of the tax
7 arising from that purchase, but not in satisfaction of penalty
8 and interest. A purchaser who uses the Manufacturer's Purchase
9 Credit to purchase property which is later determined not to be
10 production related tangible personal property may be liable for
11 tax, penalty, and interest on the purchase of that property as
12 of the date of purchase but shall be entitled to use the
13 disallowed Manufacturer's Purchase Credit, so long as it has
14 not expired and is used prior to October 1, 2003, on qualifying
15 purchases of production related tangible personal property not
16 previously subject to credit usage. The Manufacturer's
17 Purchase Credit earned by a manufacturer or graphic arts
18 producer expires the last day of the second calendar year
19 following the calendar year in which the credit arose. No
20 Manufacturer's Purchase Credit may be used after September 30,
21 2003 regardless of when that credit was earned.

22 A purchaser earning Manufacturer's Purchase Credit shall
23 sign and file an annual Report of Manufacturer's Purchase
24 Credit Earned for each calendar year no later than the last day
25 of the sixth month following the calendar year in which a
26 Manufacturer's Purchase Credit is earned. A Report of
27 Manufacturer's Purchase Credit Earned shall be filed on forms
28 as prescribed or approved by the Department and shall state,
29 for each month of the calendar year: (i) the total purchase
30 price of all purchases of exempt manufacturing or graphic arts
31 machinery on which the credit was earned; (ii) the total State
32 Use Tax or Service Use Tax which would have been due on those
33 items; (iii) the percentage used to calculate the amount of
34 credit earned; (iv) the amount of credit earned; and (v) such
35 other information as the Department may reasonably require. A
36 purchaser earning Manufacturer's Purchase Credit shall

1 maintain records which identify, as to each purchase of
2 manufacturing or graphic arts machinery and equipment on which
3 the purchaser earned Manufacturer's Purchase Credit, the
4 vendor (including, if applicable, either the vendor's
5 registration number or Federal Employer Identification
6 Number), the purchase price, and the amount of Manufacturer's
7 Purchase Credit earned on each purchase.

8 A purchaser using Manufacturer's Purchase Credit shall
9 sign and file an annual Report of Manufacturer's Purchase
10 Credit Used for each calendar year no later than the last day
11 of the sixth month following the calendar year in which a
12 Manufacturer's Purchase Credit is used. A Report of
13 Manufacturer's Purchase Credit Used shall be filed on forms as
14 prescribed or approved by the Department and shall state, for
15 each month of the calendar year: (i) the total purchase price
16 of production related tangible personal property purchased
17 from Illinois suppliers; (ii) the total purchase price of
18 production related tangible personal property purchased from
19 out-of-state suppliers; (iii) the total amount of credit used
20 during such month; and (iv) such other information as the
21 Department may reasonably require. A purchaser using
22 Manufacturer's Purchase Credit shall maintain records that
23 identify, as to each purchase of production related tangible
24 personal property on which the purchaser used Manufacturer's
25 Purchase Credit, the vendor (including, if applicable, either
26 the vendor's registration number or Federal Employer
27 Identification Number), the purchase price, and the amount of
28 Manufacturer's Purchase Credit used on each purchase.

29 No annual report shall be filed before May 1, 1996 or after
30 June 30, 2004. A purchaser that fails to file an annual Report
31 of Manufacturer's Purchase Credit Earned or an annual Report of
32 Manufacturer's Purchase Credit Used by the last day of the
33 sixth month following the end of the calendar year shall
34 forfeit all Manufacturer's Purchase Credit for that calendar
35 year unless it establishes that its failure to file was due to
36 reasonable cause. Manufacturer's Purchase Credit reports may

1 be amended to report and claim credit on qualifying purchases
2 not previously reported at any time before the credit would
3 have expired, unless both the Department and the purchaser have
4 agreed to an extension of the statute of limitations for the
5 issuance of a notice of tax liability as provided in Section 4
6 of the Retailers' Occupation Tax Act. If the time for
7 assessment or refund has been extended, then amended reports
8 for a calendar year may be filed at any time prior to the date
9 to which the statute of limitations for the calendar year or
10 portion thereof has been extended. No Manufacturer's Purchase
11 Credit report filed with the Department for periods prior to
12 January 1, 1995 shall be approved. Manufacturer's Purchase
13 Credit claimed on an amended report may be used, until October
14 1, 2003, to satisfy tax liability under the Use Tax Act or the
15 Service Use Tax Act (i) on qualifying purchases of production
16 related tangible personal property made after the date the
17 amended report is filed or (ii) assessed by the Department on
18 qualifying purchases of production related tangible personal
19 property made in the case of manufacturers on or after January
20 1, 1995, or in the case of graphic arts producers on or after
21 July 1, 1996.

22 If the purchaser is not the manufacturer or a graphic arts
23 producer, but rents or leases the use of the property to a
24 manufacturer or graphic arts producer, the purchaser may earn,
25 report, and use Manufacturer's Purchase Credit in the same
26 manner as a manufacturer or graphic arts producer.

27 A purchaser shall not be entitled to any Manufacturer's
28 Purchase Credit for a purchase that is required to be reported
29 and is not timely reported as provided in this Section. A
30 purchaser remains liable for (i) any tax that was satisfied by
31 use of a Manufacturer's Purchase Credit, as of the date of
32 purchase, if that use is not timely reported as required in
33 this Section and (ii) for any applicable penalties and interest
34 for failing to pay the tax when due. No Manufacturer's Purchase
35 Credit may be used after September 30, 2003 to satisfy any tax
36 liability imposed under this Act, including any audit

1 liability.

2 (b) Manufacturer's Purchase Credit earned on and after
3 September 1, 2004. This subsection (b) applies to
4 Manufacturer's Purchase Credit earned on and after September 1,
5 2004. Manufacturer's Purchase Credit earned on or after
6 September 1, 2004 may only be used to satisfy the Use Tax or
7 Service Use Tax liability incurred on production related
8 tangible personal property purchased on or after September 1,
9 2004. A purchaser of production related tangible personal
10 property desiring to use the Manufacturer's Purchase Credit
11 shall certify to the seller that the purchaser is satisfying
12 all or part of the liability under the Use Tax Act or the
13 Service Use Tax Act that is due on the purchase of the
14 production related tangible personal property by use of
15 Manufacturer's Purchase Credit. The Manufacturer's Purchase
16 Credit certification must be dated and shall include the name
17 and address of the purchaser, the purchaser's registration
18 number, if registered, the credit being applied, and a
19 statement that the State Use Tax or Service Use Tax liability
20 is being satisfied with the manufacturer's or graphic arts
21 producer's accumulated purchase credit. Certification may be
22 incorporated into the manufacturer's or graphic arts
23 producer's purchase order. Manufacturer's Purchase Credit
24 certification provided by the manufacturer or graphic arts
25 producer may be used to satisfy the retailer's or serviceman's
26 liability under the Retailers' Occupation Tax Act or Service
27 Occupation Tax Act for the credit claimed, not to exceed 6.25%
28 of the receipts subject to tax from a qualifying purchase, but
29 only if the retailer or serviceman reports the Manufacturer's
30 Purchase Credit claimed as required by the Department. The
31 Manufacturer's Purchase Credit earned by purchase of exempt
32 manufacturing machinery and equipment or graphic arts
33 machinery and equipment is a non-transferable credit. A
34 manufacturer or graphic arts producer that enters into a
35 contract involving the installation of tangible personal
36 property into real estate within a manufacturing or graphic

1 arts production facility may, on or after September 1, 2004,
2 authorize a construction contractor to utilize credit
3 accumulated by the manufacturer or graphic arts producer to
4 purchase the tangible personal property. A manufacturer or
5 graphic arts producer intending to use accumulated credit to
6 purchase such tangible personal property shall execute a
7 written contract authorizing the contractor to utilize a
8 specified dollar amount of credit. The contractor shall furnish
9 the supplier with the manufacturer's or graphic arts producer's
10 name, registration or resale number, and a statement that a
11 specific amount of the Use Tax or Service Use Tax liability,
12 not to exceed 6.25% of the selling price, is being satisfied
13 with the credit. The manufacturer or graphic arts producer
14 shall remain liable to timely report all information required
15 by the annual Report of Manufacturer's Purchase Credit Used for
16 all credit utilized by a construction contractor.

17 The Manufacturer's Purchase Credit may be used to satisfy
18 liability under the Use Tax Act or the Service Use Tax Act due
19 on the purchase, made on or after September 1, 2004, of
20 production related tangible personal property (including
21 purchases by a manufacturer, by a graphic arts producer, or by
22 a lessor who rents or leases the use of the property to a
23 manufacturer or graphic arts producer) that does not otherwise
24 qualify for the manufacturing machinery and equipment
25 exemption or the graphic arts machinery and equipment
26 exemption. "Production related tangible personal property"
27 means (i) all tangible personal property used or consumed by
28 the purchaser in a manufacturing facility in which a
29 manufacturing process described in Section 2-45 of the
30 Retailers' Occupation Tax Act takes place, including tangible
31 personal property purchased for incorporation into real estate
32 within a manufacturing facility and including, but not limited
33 to, tangible personal property used or consumed in activities
34 such as preproduction material handling, receiving, quality
35 control, inventory control, storage, staging, and packaging
36 for shipping and transportation purposes; (ii) all tangible

1 personal property used or consumed by the purchaser in a
2 graphic arts facility in which graphic arts production as
3 described in Section 2-30 of the Retailers' Occupation Tax Act
4 takes place, including tangible personal property purchased
5 for incorporation into real estate within a graphic arts
6 facility and including, but not limited to, all tangible
7 personal property used or consumed in activities such as
8 graphic arts preliminary or pre-press production,
9 pre-production material handling, receiving, quality control,
10 inventory control, storage, staging, sorting, labeling,
11 mailing, tying, wrapping, and packaging; and (iii) all tangible
12 personal property used or consumed by the purchaser for
13 research and development. "Production related tangible
14 personal property" does not include (i) tangible personal
15 property used, within or without a manufacturing facility, in
16 sales, purchasing, accounting, fiscal management, marketing,
17 personnel recruitment or selection, or landscaping or (ii)
18 tangible personal property required to be titled or registered
19 with a department, agency, or unit of federal, state, or local
20 government. The Manufacturer's Purchase Credit may be used to
21 satisfy the tax arising either from the purchase of machinery
22 and equipment on or after September 1, 2004 for which the
23 exemption provided by paragraph (18) of Section 3-5 of this Act
24 was erroneously claimed, or the purchase of machinery and
25 equipment on or after September 1, 2004 for which the exemption
26 provided by paragraph (6) of Section 3-5 of this Act was
27 erroneously claimed, but not in satisfaction of penalty, if
28 any, and interest for failure to pay the tax when due. A
29 purchaser of production related tangible personal property
30 that is purchased on or after September 1, 2004 who is required
31 to pay Illinois Use Tax or Service Use Tax on the purchase
32 directly to the Department may utilize the Manufacturer's
33 Purchase Credit in satisfaction of the tax arising from that
34 purchase, but not in satisfaction of penalty and interest. A
35 purchaser who uses the Manufacturer's Purchase Credit to
36 purchase property on and after September 1, 2004 which is later

1 determined not to be production related tangible personal
2 property may be liable for tax, penalty, and interest on the
3 purchase of that property as of the date of purchase but shall
4 be entitled to use the disallowed Manufacturer's Purchase
5 Credit, so long as it has not expired and is used on qualifying
6 purchases of production related tangible personal property not
7 previously subject to credit usage. The Manufacturer's
8 Purchase Credit earned by a manufacturer or graphic arts
9 producer expires the last day of the second calendar year
10 following the calendar year in which the credit arose. A
11 purchaser earning Manufacturer's Purchase Credit shall sign
12 and file an annual Report of Manufacturer's Purchase Credit
13 Earned for each calendar year no later than the last day of the
14 sixth month following the calendar year in which a
15 Manufacturer's Purchase Credit is earned. A Report of
16 Manufacturer's Purchase Credit Earned shall be filed on forms
17 as prescribed or approved by the Department and shall state,
18 for each month of the calendar year: (i) the total purchase
19 price of all purchases of exempt manufacturing or graphic arts
20 machinery on which the credit was earned; (ii) the total State
21 Use Tax or Service Use Tax which would have been due on those
22 items; (iii) the percentage used to calculate the amount of
23 credit earned; (iv) the amount of credit earned; and (v) such
24 other information as the Department may reasonably require. A
25 purchaser earning Manufacturer's Purchase Credit shall
26 maintain records which identify, as to each purchase of
27 manufacturing or graphic arts machinery and equipment on which
28 the purchaser earned Manufacturer's Purchase Credit, the
29 vendor (including, if applicable, either the vendor's
30 registration number or Federal Employer Identification
31 Number), the purchase price, and the amount of Manufacturer's
32 Purchase Credit earned on each purchase. A purchaser using
33 Manufacturer's Purchase Credit shall sign and file an annual
34 Report of Manufacturer's Purchase Credit Used for each calendar
35 year no later than the last day of the sixth month following
36 the calendar year in which a Manufacturer's Purchase Credit is

1 used. A Report of Manufacturer's Purchase Credit Used shall be
2 filed on forms as prescribed or approved by the Department and
3 shall state, for each month of the calendar year: (i) the total
4 purchase price of production related tangible personal
5 property purchased from Illinois suppliers; (ii) the total
6 purchase price of production related tangible personal
7 property purchased from out-of-state suppliers; (iii) the
8 total amount of credit used during such month; and (iv) such
9 other information as the Department may reasonably require. A
10 purchaser using Manufacturer's Purchase Credit shall maintain
11 records that identify, as to each purchase of production
12 related tangible personal property on which the purchaser used
13 Manufacturer's Purchase Credit, the vendor (including, if
14 applicable, either the vendor's registration number or Federal
15 Employer Identification Number), the purchase price, and the
16 amount of Manufacturer's Purchase Credit used on each purchase.

17 A purchaser that fails to file an annual Report of
18 Manufacturer's Purchase Credit Earned or an annual Report of
19 Manufacturer's Purchase Credit Used by the last day of the
20 sixth month following the end of the calendar year shall
21 forfeit all Manufacturer's Purchase Credit for that calendar
22 year unless it establishes that its failure to file was due to
23 reasonable cause. Manufacturer's Purchase Credit reports may
24 be amended to report and claim credit on qualifying purchases
25 not previously reported at any time before the credit would
26 have expired, unless both the Department and the purchaser have
27 agreed to an extension of the statute of limitations for the
28 issuance of a notice of tax liability as provided in Section 4
29 of the Retailers' Occupation Tax Act. If the time for
30 assessment or refund has been extended, then amended reports
31 for a calendar year may be filed at any time prior to the date
32 to which the statute of limitations for the calendar year or
33 portion thereof has been extended. Manufacturer's Purchase
34 Credit claimed on an amended report may be used to satisfy tax
35 liability under the Use Tax Act or the Service Use Tax Act (i)
36 on qualifying purchases of production related tangible

1 personal property made after the date the amended report is
2 filed or (ii) assessed by the Department on qualifying
3 production related tangible personal property purchased on or
4 after September 1, 2004. If the purchaser is not the
5 manufacturer or a graphic arts producer, but rents or leases
6 the use of the property to a manufacturer or graphic arts
7 producer, the purchaser may earn, report, and use
8 Manufacturer's Purchase Credit in the same manner as a
9 manufacturer or graphic arts producer. A purchaser shall not be
10 entitled to any Manufacturer's Purchase Credit for a purchase
11 that is required to be reported and is not timely reported as
12 provided in this Section. A purchaser remains liable for (i)
13 any tax that was satisfied by use of a Manufacturer's Purchase
14 Credit, as of the date of purchase, if that use is not timely
15 reported as required in this Section and (ii) for any
16 applicable penalties and interest for failing to pay the tax
17 when due.

18 (Source: P.A. 93-24, eff. 6-20-03.)

19 Section 20-15. The Service Use Tax Act is amended by
20 changing Sections 3-5 and 3-70 as follows:

21 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

22 Sec. 3-5. Exemptions. Use of the following tangible
23 personal property is exempt from the tax imposed by this Act:

24 (1) Personal property purchased from a corporation,
25 society, association, foundation, institution, or
26 organization, other than a limited liability company, that is
27 organized and operated as a not-for-profit service enterprise
28 for the benefit of persons 65 years of age or older if the
29 personal property was not purchased by the enterprise for the
30 purpose of resale by the enterprise.

31 (2) Personal property purchased by a non-profit Illinois
32 county fair association for use in conducting, operating, or
33 promoting the county fair.

34 (3) Personal property purchased by a not-for-profit arts or

1 cultural organization that establishes, by proof required by
2 the Department by rule, that it has received an exemption under
3 Section 501(c)(3) of the Internal Revenue Code and that is
4 organized and operated primarily for the presentation or
5 support of arts or cultural programming, activities, or
6 services. These organizations include, but are not limited to,
7 music and dramatic arts organizations such as symphony
8 orchestras and theatrical groups, arts and cultural service
9 organizations, local arts councils, visual arts organizations,
10 and media arts organizations. On and after the effective date
11 of this amendatory Act of the 92nd General Assembly, however,
12 an entity otherwise eligible for this exemption shall not make
13 tax-free purchases unless it has an active identification
14 number issued by the Department.

15 (4) Legal tender, currency, medallions, or gold or silver
16 coinage issued by the State of Illinois, the government of the
17 United States of America, or the government of any foreign
18 country, and bullion.

19 (5) Until July 1, 2003 and beginning again on September 1,
20 2004, graphic arts machinery and equipment, including repair
21 and replacement parts, both new and used, and including that
22 manufactured on special order or purchased for lease, certified
23 by the purchaser to be used primarily for graphic arts
24 production. Equipment includes chemicals or chemicals acting
25 as catalysts but only if the chemicals or chemicals acting as
26 catalysts effect a direct and immediate change upon a graphic
27 arts product.

28 (6) Personal property purchased from a teacher-sponsored
29 student organization affiliated with an elementary or
30 secondary school located in Illinois.

31 (7) Farm machinery and equipment, both new and used,
32 including that manufactured on special order, certified by the
33 purchaser to be used primarily for production agriculture or
34 State or federal agricultural programs, including individual
35 replacement parts for the machinery and equipment, including
36 machinery and equipment purchased for lease, and including

1 implements of husbandry defined in Section 1-130 of the
2 Illinois Vehicle Code, farm machinery and agricultural
3 chemical and fertilizer spreaders, and nurse wagons required to
4 be registered under Section 3-809 of the Illinois Vehicle Code,
5 but excluding other motor vehicles required to be registered
6 under the Illinois Vehicle Code. Horticultural polyhouses or
7 hoop houses used for propagating, growing, or overwintering
8 plants shall be considered farm machinery and equipment under
9 this item (7). Agricultural chemical tender tanks and dry boxes
10 shall include units sold separately from a motor vehicle
11 required to be licensed and units sold mounted on a motor
12 vehicle required to be licensed if the selling price of the
13 tender is separately stated.

14 Farm machinery and equipment shall include precision
15 farming equipment that is installed or purchased to be
16 installed on farm machinery and equipment including, but not
17 limited to, tractors, harvesters, sprayers, planters, seeders,
18 or spreaders. Precision farming equipment includes, but is not
19 limited to, soil testing sensors, computers, monitors,
20 software, global positioning and mapping systems, and other
21 such equipment.

22 Farm machinery and equipment also includes computers,
23 sensors, software, and related equipment used primarily in the
24 computer-assisted operation of production agriculture
25 facilities, equipment, and activities such as, but not limited
26 to, the collection, monitoring, and correlation of animal and
27 crop data for the purpose of formulating animal diets and
28 agricultural chemicals. This item (7) is exempt from the
29 provisions of Section 3-75.

30 (8) Fuel and petroleum products sold to or used by an air
31 common carrier, certified by the carrier to be used for
32 consumption, shipment, or storage in the conduct of its
33 business as an air common carrier, for a flight destined for or
34 returning from a location or locations outside the United
35 States without regard to previous or subsequent domestic
36 stopovers.

1 (9) Proceeds of mandatory service charges separately
2 stated on customers' bills for the purchase and consumption of
3 food and beverages acquired as an incident to the purchase of a
4 service from a serviceman, to the extent that the proceeds of
5 the service charge are in fact turned over as tips or as a
6 substitute for tips to the employees who participate directly
7 in preparing, serving, hosting or cleaning up the food or
8 beverage function with respect to which the service charge is
9 imposed.

10 (10) Until July 1, 2003, oil field exploration, drilling,
11 and production equipment, including (i) rigs and parts of rigs,
12 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
13 tubular goods, including casing and drill strings, (iii) pumps
14 and pump-jack units, (iv) storage tanks and flow lines, (v) any
15 individual replacement part for oil field exploration,
16 drilling, and production equipment, and (vi) machinery and
17 equipment purchased for lease; but excluding motor vehicles
18 required to be registered under the Illinois Vehicle Code.

19 (11) Proceeds from the sale of photoprocessing machinery
20 and equipment, including repair and replacement parts, both new
21 and used, including that manufactured on special order,
22 certified by the purchaser to be used primarily for
23 photoprocessing, and including photoprocessing machinery and
24 equipment purchased for lease.

25 (12) Until July 1, 2003, coal exploration, mining,
26 offhighway hauling, processing, maintenance, and reclamation
27 equipment, including replacement parts and equipment, and
28 including equipment purchased for lease, but excluding motor
29 vehicles required to be registered under the Illinois Vehicle
30 Code.

31 (13) Semen used for artificial insemination of livestock
32 for direct agricultural production.

33 (14) Horses, or interests in horses, registered with and
34 meeting the requirements of any of the Arabian Horse Club
35 Registry of America, Appaloosa Horse Club, American Quarter
36 Horse Association, United States Trotting Association, or

1 Jockey Club, as appropriate, used for purposes of breeding or
2 racing for prizes.

3 (15) Computers and communications equipment utilized for
4 any hospital purpose and equipment used in the diagnosis,
5 analysis, or treatment of hospital patients purchased by a
6 lessor who leases the equipment, under a lease of one year or
7 longer executed or in effect at the time the lessor would
8 otherwise be subject to the tax imposed by this Act, to a
9 hospital that has been issued an active tax exemption
10 identification number by the Department under Section 1g of the
11 Retailers' Occupation Tax Act. If the equipment is leased in a
12 manner that does not qualify for this exemption or is used in
13 any other non-exempt manner, the lessor shall be liable for the
14 tax imposed under this Act or the Use Tax Act, as the case may
15 be, based on the fair market value of the property at the time
16 the non-qualifying use occurs. No lessor shall collect or
17 attempt to collect an amount (however designated) that purports
18 to reimburse that lessor for the tax imposed by this Act or the
19 Use Tax Act, as the case may be, if the tax has not been paid by
20 the lessor. If a lessor improperly collects any such amount
21 from the lessee, the lessee shall have a legal right to claim a
22 refund of that amount from the lessor. If, however, that amount
23 is not refunded to the lessee for any reason, the lessor is
24 liable to pay that amount to the Department.

25 (16) Personal property purchased by a lessor who leases the
26 property, under a lease of one year or longer executed or in
27 effect at the time the lessor would otherwise be subject to the
28 tax imposed by this Act, to a governmental body that has been
29 issued an active tax exemption identification number by the
30 Department under Section 1g of the Retailers' Occupation Tax
31 Act. If the property is leased in a manner that does not
32 qualify for this exemption or is used in any other non-exempt
33 manner, the lessor shall be liable for the tax imposed under
34 this Act or the Use Tax Act, as the case may be, based on the
35 fair market value of the property at the time the
36 non-qualifying use occurs. No lessor shall collect or attempt

1 to collect an amount (however designated) that purports to
2 reimburse that lessor for the tax imposed by this Act or the
3 Use Tax Act, as the case may be, if the tax has not been paid by
4 the lessor. If a lessor improperly collects any such amount
5 from the lessee, the lessee shall have a legal right to claim a
6 refund of that amount from the lessor. If, however, that amount
7 is not refunded to the lessee for any reason, the lessor is
8 liable to pay that amount to the Department.

9 (17) Beginning with taxable years ending on or after
10 December 31, 1995 and ending with taxable years ending on or
11 before December 31, 2004, personal property that is donated for
12 disaster relief to be used in a State or federally declared
13 disaster area in Illinois or bordering Illinois by a
14 manufacturer or retailer that is registered in this State to a
15 corporation, society, association, foundation, or institution
16 that has been issued a sales tax exemption identification
17 number by the Department that assists victims of the disaster
18 who reside within the declared disaster area.

19 (18) Beginning with taxable years ending on or after
20 December 31, 1995 and ending with taxable years ending on or
21 before December 31, 2004, personal property that is used in the
22 performance of infrastructure repairs in this State, including
23 but not limited to municipal roads and streets, access roads,
24 bridges, sidewalks, waste disposal systems, water and sewer
25 line extensions, water distribution and purification
26 facilities, storm water drainage and retention facilities, and
27 sewage treatment facilities, resulting from a State or
28 federally declared disaster in Illinois or bordering Illinois
29 when such repairs are initiated on facilities located in the
30 declared disaster area within 6 months after the disaster.

31 (19) Beginning July 1, 1999, game or game birds purchased
32 at a "game breeding and hunting preserve area" or an "exotic
33 game hunting area" as those terms are used in the Wildlife Code
34 or at a hunting enclosure approved through rules adopted by the
35 Department of Natural Resources. This paragraph is exempt from
36 the provisions of Section 3-75.

1 (20) A motor vehicle, as that term is defined in Section
2 1-146 of the Illinois Vehicle Code, that is donated to a
3 corporation, limited liability company, society, association,
4 foundation, or institution that is determined by the Department
5 to be organized and operated exclusively for educational
6 purposes. For purposes of this exemption, "a corporation,
7 limited liability company, society, association, foundation,
8 or institution organized and operated exclusively for
9 educational purposes" means all tax-supported public schools,
10 private schools that offer systematic instruction in useful
11 branches of learning by methods common to public schools and
12 that compare favorably in their scope and intensity with the
13 course of study presented in tax-supported schools, and
14 vocational or technical schools or institutes organized and
15 operated exclusively to provide a course of study of not less
16 than 6 weeks duration and designed to prepare individuals to
17 follow a trade or to pursue a manual, technical, mechanical,
18 industrial, business, or commercial occupation.

19 (21) Beginning January 1, 2000, personal property,
20 including food, purchased through fundraising events for the
21 benefit of a public or private elementary or secondary school,
22 a group of those schools, or one or more school districts if
23 the events are sponsored by an entity recognized by the school
24 district that consists primarily of volunteers and includes
25 parents and teachers of the school children. This paragraph
26 does not apply to fundraising events (i) for the benefit of
27 private home instruction or (ii) for which the fundraising
28 entity purchases the personal property sold at the events from
29 another individual or entity that sold the property for the
30 purpose of resale by the fundraising entity and that profits
31 from the sale to the fundraising entity. This paragraph is
32 exempt from the provisions of Section 3-75.

33 (22) Beginning January 1, 2000 and through December 31,
34 2001, new or used automatic vending machines that prepare and
35 serve hot food and beverages, including coffee, soup, and other
36 items, and replacement parts for these machines. Beginning

1 January 1, 2002 and through June 30, 2003, machines and parts
2 for machines used in commercial, coin-operated amusement and
3 vending business if a use or occupation tax is paid on the
4 gross receipts derived from the use of the commercial,
5 coin-operated amusement and vending machines. This paragraph
6 is exempt from the provisions of Section 3-75.

7 (23) Food for human consumption that is to be consumed off
8 the premises where it is sold (other than alcoholic beverages,
9 soft drinks, and food that has been prepared for immediate
10 consumption) and prescription and nonprescription medicines,
11 drugs, medical appliances, and insulin, urine testing
12 materials, syringes, and needles used by diabetics, for human
13 use, when purchased for use by a person receiving medical
14 assistance under Article 5 of the Illinois Public Aid Code who
15 resides in a licensed long-term care facility, as defined in
16 the Nursing Home Care Act.

17 (24) Beginning on the effective date of this amendatory Act
18 of the 92nd General Assembly, computers and communications
19 equipment utilized for any hospital purpose and equipment used
20 in the diagnosis, analysis, or treatment of hospital patients
21 purchased by a lessor who leases the equipment, under a lease
22 of one year or longer executed or in effect at the time the
23 lessor would otherwise be subject to the tax imposed by this
24 Act, to a hospital that has been issued an active tax exemption
25 identification number by the Department under Section 1g of the
26 Retailers' Occupation Tax Act. If the equipment is leased in a
27 manner that does not qualify for this exemption or is used in
28 any other nonexempt manner, the lessor shall be liable for the
29 tax imposed under this Act or the Use Tax Act, as the case may
30 be, based on the fair market value of the property at the time
31 the nonqualifying use occurs. No lessor shall collect or
32 attempt to collect an amount (however designated) that purports
33 to reimburse that lessor for the tax imposed by this Act or the
34 Use Tax Act, as the case may be, if the tax has not been paid by
35 the lessor. If a lessor improperly collects any such amount
36 from the lessee, the lessee shall have a legal right to claim a

1 refund of that amount from the lessor. If, however, that amount
2 is not refunded to the lessee for any reason, the lessor is
3 liable to pay that amount to the Department. This paragraph is
4 exempt from the provisions of Section 3-75.

5 (25) Beginning on the effective date of this amendatory Act
6 of the 92nd General Assembly, personal property purchased by a
7 lessor who leases the property, under a lease of one year or
8 longer executed or in effect at the time the lessor would
9 otherwise be subject to the tax imposed by this Act, to a
10 governmental body that has been issued an active tax exemption
11 identification number by the Department under Section 1g of the
12 Retailers' Occupation Tax Act. If the property is leased in a
13 manner that does not qualify for this exemption or is used in
14 any other nonexempt manner, the lessor shall be liable for the
15 tax imposed under this Act or the Use Tax Act, as the case may
16 be, based on the fair market value of the property at the time
17 the nonqualifying use occurs. No lessor shall collect or
18 attempt to collect an amount (however designated) that purports
19 to reimburse that lessor for the tax imposed by this Act or the
20 Use Tax Act, as the case may be, if the tax has not been paid by
21 the lessor. If a lessor improperly collects any such amount
22 from the lessee, the lessee shall have a legal right to claim a
23 refund of that amount from the lessor. If, however, that amount
24 is not refunded to the lessee for any reason, the lessor is
25 liable to pay that amount to the Department. This paragraph is
26 exempt from the provisions of Section 3-75.

27 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
28 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
29 92-651, eff. 7-11-02; 93-24, eff. 6-20-03.)

30 (35 ILCS 110/3-70)

31 Sec. 3-70. Manufacturer's Purchase Credit. For purchases
32 of machinery and equipment made on and after January 1, 1995
33 and through June 30, 2003, and on and after September 1, 2004,
34 a purchaser of manufacturing machinery and equipment that
35 qualifies for the exemption provided by Section 2 of this Act

1 earns a credit in an amount equal to a fixed percentage of the
2 tax which would have been incurred under this Act on those
3 purchases. For purchases of graphic arts machinery and
4 equipment made on or after July 1, 1996 ~~and~~ through June 30,
5 2003, and on and after September 1, 2004, a purchase of graphic
6 arts machinery and equipment that qualifies for the exemption
7 provided by paragraph (5) of Section 3-5 of this Act earns a
8 credit in an amount equal to a fixed percentage of the tax that
9 would have been incurred under this Act on those purchases. The
10 credit earned for the purchase of manufacturing machinery and
11 equipment and graphic arts machinery and equipment shall be
12 referred to as the Manufacturer's Purchase Credit. A graphic
13 arts producer is a person engaged in graphic arts production as
14 defined in Section 3-30 of the Service Occupation Tax Act.
15 Beginning July 1, 1996, all references in this Section to
16 manufacturers or manufacturing shall also refer to graphic arts
17 producers or graphic arts production.

18 The amount of credit shall be a percentage of the tax that
19 would have been incurred on the purchase of the manufacturing
20 machinery and equipment or graphic arts machinery and equipment
21 if the exemptions provided by Section 2 or paragraph (5) of
22 Section 3-5 of this Act had not been applicable.

23 All purchases prior to October 1, 2003 of manufacturing
24 machinery and equipment and graphic arts machinery and
25 equipment that qualify for the exemptions provided by paragraph
26 (5) of Section 2 or paragraph (5) of Section 3-5 of this Act
27 qualify for the credit without regard to whether the serviceman
28 elected, or could have elected, under paragraph (7) of Section
29 2 of this Act to exclude the transaction from this Act. If the
30 serviceman's billing to the service customer separately states
31 a selling price for the exempt manufacturing machinery or
32 equipment or the exempt graphic arts machinery and equipment,
33 the credit shall be calculated, as otherwise provided herein,
34 based on that selling price. If the serviceman's billing does
35 not separately state a selling price for the exempt
36 manufacturing machinery and equipment or the exempt graphic

1 arts machinery and equipment, the credit shall be calculated,
2 as otherwise provided herein, based on 50% of the entire
3 billing. If the serviceman contracts to design, develop, and
4 produce special order manufacturing machinery and equipment or
5 special order graphic arts machinery and equipment, and the
6 billing does not separately state a selling price for such
7 special order machinery and equipment, the credit shall be
8 calculated, as otherwise provided herein, based on 50% of the
9 entire billing. The provisions of this paragraph are effective
10 for purchases made on or after January 1, 1995.

11 The percentage shall be as follows:

12 (1) 15% for purchases made on or before June 30, 1995.

13 (2) 25% for purchases made after June 30, 1995, and on
14 or before June 30, 1996.

15 (3) 40% for purchases made after June 30, 1996, and on
16 or before June 30, 1997.

17 (4) 50% for purchases made on or after July 1, 1997.

18 (a) Manufacturer's Purchase Credit earned prior to July 1,
19 2003. This subsection (a) applies to Manufacturer's Purchase
20 Credit earned prior to July 1, 2003. A purchaser of production
21 related tangible personal property desiring to use the
22 Manufacturer's Purchase Credit shall certify to the seller
23 prior to October 1, 2003 that the purchaser is satisfying all
24 or part of the liability under the Use Tax Act or the Service
25 Use Tax Act that is due on the purchase of the production
26 related tangible personal property by use of a Manufacturer's
27 Purchase Credit. The Manufacturer's Purchase Credit
28 certification must be dated and shall include the name and
29 address of the purchaser, the purchaser's registration number,
30 if registered, the credit being applied, and a statement that
31 the State Use Tax or Service Use Tax liability is being
32 satisfied with the manufacturer's or graphic arts producer's
33 accumulated purchase credit. Certification may be incorporated
34 into the manufacturer's or graphic arts producer's purchase
35 order. Manufacturer's Purchase Credit certification provided
36 by the manufacturer or graphic arts producer prior to October

1 1, 2003 may be used to satisfy the retailer's or serviceman's
2 liability under the Retailers' Occupation Tax Act or Service
3 Occupation Tax Act for the credit claimed, not to exceed 6.25%
4 of the receipts subject to tax from a qualifying purchase, but
5 only if the retailer or serviceman reports the Manufacturer's
6 Purchase Credit claimed as required by the Department. A
7 Manufacturer's Purchase Credit reported on any original or
8 amended return filed under this Act after October 20, 2003
9 shall be disallowed. The Manufacturer's Purchase Credit earned
10 by purchase of exempt manufacturing machinery and equipment or
11 graphic arts machinery and equipment is a non-transferable
12 credit. A manufacturer or graphic arts producer that enters
13 into a contract involving the installation of tangible personal
14 property into real estate within a manufacturing or graphic
15 arts production facility, prior to October 1, 2003, may
16 authorize a construction contractor to utilize credit
17 accumulated by the manufacturer or graphic arts producer to
18 purchase the tangible personal property. A manufacturer or
19 graphic arts producer intending to use accumulated credit to
20 purchase such tangible personal property shall execute a
21 written contract authorizing the contractor to utilize a
22 specified dollar amount of credit. The contractor shall
23 furnish, prior to October 1, 2003, the supplier with the
24 manufacturer's or graphic arts producer's name, registration
25 or resale number, and a statement that a specific amount of the
26 Use Tax or Service Use Tax liability, not to exceed 6.25% of
27 the selling price, is being satisfied with the credit. The
28 manufacturer or graphic arts producer shall remain liable to
29 timely report all information required by the annual Report of
30 Manufacturer's Purchase Credit Used for credit utilized by a
31 construction contractor.

32 No Manufacturer's Purchase Credit earned prior to July 1,
33 2003 may be used after October 1, 2003. The Manufacturer's
34 Purchase Credit may be used to satisfy liability under the Use
35 Tax Act or the Service Use Tax Act due on the purchase of
36 production related tangible personal property (including

1 purchases by a manufacturer, by a graphic arts producer, or a
2 lessor who rents or leases the use of the property to a
3 manufacturer or graphic arts producer) that does not otherwise
4 qualify for the manufacturing machinery and equipment
5 exemption or the graphic arts machinery and equipment
6 exemption. "Production related tangible personal property"
7 means (i) all tangible personal property used or consumed by
8 the purchaser in a manufacturing facility in which a
9 manufacturing process described in Section 2-45 of the
10 Retailers' Occupation Tax Act takes place, including tangible
11 personal property purchased for incorporation into real estate
12 within a manufacturing facility and including, but not limited
13 to, tangible personal property used or consumed in activities
14 such as pre-production material handling, receiving, quality
15 control, inventory control, storage, staging, and packaging
16 for shipping and transportation purposes; (ii) all tangible
17 personal property used or consumed by the purchaser in a
18 graphic arts facility in which graphic arts production as
19 described in Section 2-30 of the Retailers' Occupation Tax Act
20 takes place, including tangible personal property purchased
21 for incorporation into real estate within a graphic arts
22 facility and including, but not limited to, all tangible
23 personal property used or consumed in activities such as
24 graphic arts preliminary or pre-press production,
25 pre-production material handling, receiving, quality control,
26 inventory control, storage, staging, sorting, labeling,
27 mailing, tying, wrapping, and packaging; and (iii) all tangible
28 personal property used or consumed by the purchaser for
29 research and development. "Production related tangible
30 personal property" does not include (i) tangible personal
31 property used, within or without a manufacturing or graphic
32 arts facility, in sales, purchasing, accounting, fiscal
33 management, marketing, personnel recruitment or selection, or
34 landscaping or (ii) tangible personal property required to be
35 titled or registered with a department, agency, or unit of
36 federal, state, or local government. The Manufacturer's

1 Purchase Credit may be used, prior to October 1, 2003, to
2 satisfy the tax arising either from the purchase of machinery
3 and equipment on or after January 1, 1995 for which the
4 manufacturing machinery and equipment exemption provided by
5 Section 2 of this Act was erroneously claimed, or the purchase
6 of machinery and equipment on or after July 1, 1996 for which
7 the exemption provided by paragraph (5) of Section 3-5 of this
8 Act was erroneously claimed, but not in satisfaction of
9 penalty, if any, and interest for failure to pay the tax when
10 due. A purchaser of production related tangible personal
11 property who is required to pay Illinois Use Tax or Service Use
12 Tax on the purchase directly to the Department may, prior to
13 October 1, 2003, utilize the Manufacturer's Purchase Credit in
14 satisfaction of the tax arising from that purchase, but not in
15 satisfaction of penalty and interest. A purchaser who uses the
16 Manufacturer's Purchase Credit to purchase property which is
17 later determined not to be production related tangible personal
18 property may be liable for tax, penalty, and interest on the
19 purchase of that property as of the date of purchase but shall
20 be entitled to use the disallowed Manufacturer's Purchase
21 Credit, so long as it has not expired and is used prior to
22 October 1, 2003, on qualifying purchases of production related
23 tangible personal property not previously subject to credit
24 usage. The Manufacturer's Purchase Credit earned by a
25 manufacturer or graphic arts producer expires the last day of
26 the second calendar year following the calendar year in which
27 the credit arose. No Manufacturer's Purchase Credit may be used
28 after September 30, 2003 regardless of when that credit was
29 earned.

30 A purchaser earning Manufacturer's Purchase Credit shall
31 sign and file an annual Report of Manufacturer's Purchase
32 Credit Earned for each calendar year no later than the last day
33 of the sixth month following the calendar year in which a
34 Manufacturer's Purchase Credit is earned. A Report of
35 Manufacturer's Purchase Credit Earned shall be filed on forms
36 as prescribed or approved by the Department and shall state,

1 for each month of the calendar year: (i) the total purchase
2 price of all purchases of exempt manufacturing or graphic arts
3 machinery on which the credit was earned; (ii) the total State
4 Use Tax or Service Use Tax which would have been due on those
5 items; (iii) the percentage used to calculate the amount of
6 credit earned; (iv) the amount of credit earned; and (v) such
7 other information as the Department may reasonably require. A
8 purchaser earning Manufacturer's Purchase Credit shall
9 maintain records which identify, as to each purchase of
10 manufacturing or graphic arts machinery and equipment on which
11 the purchaser earned Manufacturer's Purchase Credit, the
12 vendor (including, if applicable, either the vendor's
13 registration number or Federal Employer Identification
14 Number), the purchase price, and the amount of Manufacturer's
15 Purchase Credit earned on each purchase.

16 A purchaser using Manufacturer's Purchase Credit shall
17 sign and file an annual Report of Manufacturer's Purchase
18 Credit Used for each calendar year no later than the last day
19 of the sixth month following the calendar year in which a
20 Manufacturer's Purchase Credit is used. A Report of
21 Manufacturer's Purchase Credit Used shall be filed on forms as
22 prescribed or approved by the Department and shall state, for
23 each month of the calendar year: (i) the total purchase price
24 of production related tangible personal property purchased
25 from Illinois suppliers; (ii) the total purchase price of
26 production related tangible personal property purchased from
27 out-of-state suppliers; (iii) the total amount of credit used
28 during such month; and (iv) such other information as the
29 Department may reasonably require. A purchaser using
30 Manufacturer's Purchase Credit shall maintain records that
31 identify, as to each purchase of production related tangible
32 personal property on which the purchaser used Manufacturer's
33 Purchase Credit, the vendor (including, if applicable, either
34 the vendor's registration number or Federal Employer
35 Identification Number), the purchase price, and the amount of
36 Manufacturer's Purchase Credit used on each purchase.

1 No annual report shall be filed before May 1, 1996 or after
2 June 30, 2004. A purchaser that fails to file an annual Report
3 of Manufacturer's Purchase Credit Earned or an annual Report of
4 Manufacturer's Purchase Credit Used by the last day of the
5 sixth month following the end of the calendar year shall
6 forfeit all Manufacturer's Purchase Credit for that calendar
7 year unless it establishes that its failure to file was due to
8 reasonable cause. Manufacturer's Purchase Credit reports may
9 be amended to report and claim credit on qualifying purchases
10 not previously reported at any time before the credit would
11 have expired, unless both the Department and the purchaser have
12 agreed to an extension of the statute of limitations for the
13 issuance of a notice of tax liability as provided in Section 4
14 of the Retailers' Occupation Tax Act. If the time for
15 assessment or refund has been extended, then amended reports
16 for a calendar year may be filed at any time prior to the date
17 to which the statute of limitations for the calendar year or
18 portion thereof has been extended. No Manufacturer's Purchase
19 Credit report filed with the Department for periods prior to
20 January 1, 1995 shall be approved. Manufacturer's Purchase
21 Credit claimed on an amended report may be used, prior to
22 October 1, 2003, to satisfy tax liability under the Use Tax Act
23 or the Service Use Tax Act (i) on qualifying purchases of
24 production related tangible personal property made after the
25 date the amended report is filed or (ii) assessed by the
26 Department on qualifying purchases of production related
27 tangible personal property made in the case of manufacturers on
28 or after January 1, 1995, or in the case of graphic arts
29 producers on or after July 1, 1996.

30 If the purchaser is not the manufacturer or a graphic arts
31 producer, but rents or leases the use of the property to a
32 manufacturer or a graphic arts producer, the purchaser may
33 earn, report, and use Manufacturer's Purchase Credit in the
34 same manner as a manufacturer or graphic arts producer.

35 A purchaser shall not be entitled to any Manufacturer's
36 Purchase Credit for a purchase that is required to be reported

1 and is not timely reported as provided in this Section. A
2 purchaser remains liable for (i) any tax that was satisfied by
3 use of a Manufacturer's Purchase Credit, as of the date of
4 purchase, if that use is not timely reported as required in
5 this Section and (ii) for any applicable penalties and interest
6 for failing to pay the tax when due. No Manufacturer's Purchase
7 Credit may be used after September 30, 2003 to satisfy any tax
8 liability imposed under this Act, including any audit
9 liability.

10 (b) Manufacturer's Purchase Credit earned on and after
11 September 1, 2004. This subsection (b) applies to
12 Manufacturer's Purchase Credit earned on or after September 1,
13 2004. Manufacturer's Purchase Credit earned on or after
14 September 1, 2004 may only be used to satisfy the Use Tax or
15 Service Use Tax liability incurred on production related
16 tangible personal property purchased on or after September 1,
17 2004. A purchaser of production related tangible personal
18 property desiring to use the Manufacturer's Purchase Credit
19 shall certify to the seller that the purchaser is satisfying
20 all or part of the liability under the Use Tax Act or the
21 Service Use Tax Act that is due on the purchase of the
22 production related tangible personal property by use of a
23 Manufacturer's Purchase Credit. The Manufacturer's Purchase
24 Credit certification must be dated and shall include the name
25 and address of the purchaser, the purchaser's registration
26 number, if registered, the credit being applied, and a
27 statement that the State Use Tax or Service Use Tax liability
28 is being satisfied with the manufacturer's or graphic arts
29 producer's accumulated purchase credit. Certification may be
30 incorporated into the manufacturer's or graphic arts
31 producer's purchase order. Manufacturer's Purchase Credit
32 certification provided by the manufacturer or graphic arts
33 producer may be used to satisfy the retailer's or serviceman's
34 liability under the Retailers' Occupation Tax Act or Service
35 Occupation Tax Act for the credit claimed, not to exceed 6.25%
36 of the receipts subject to tax from a qualifying purchase, but

1 only if the retailer or serviceman reports the Manufacturer's
2 Purchase Credit claimed as required by the Department. The
3 Manufacturer's Purchase Credit earned by purchase of exempt
4 manufacturing machinery and equipment or graphic arts
5 machinery and equipment is a non-transferable credit. A
6 manufacturer or graphic arts producer that enters into a
7 contract involving the installation of tangible personal
8 property into real estate within a manufacturing or graphic
9 arts production facility may, on or after September 1, 2004,
10 authorize a construction contractor to utilize credit
11 accumulated by the manufacturer or graphic arts producer to
12 purchase the tangible personal property. A manufacturer or
13 graphic arts producer intending to use accumulated credit to
14 purchase such tangible personal property shall execute a
15 written contract authorizing the contractor to utilize a
16 specified dollar amount of credit. The contractor shall furnish
17 the supplier with the manufacturer's or graphic arts producer's
18 name, registration or resale number, and a statement that a
19 specific amount of the Use Tax or Service Use Tax liability,
20 not to exceed 6.25% of the selling price, is being satisfied
21 with the credit. The manufacturer or graphic arts producer
22 shall remain liable to timely report all information required
23 by the annual Report of Manufacturer's Purchase Credit Used for
24 credit utilized by a construction contractor.

25 The Manufacturer's Purchase Credit may be used to satisfy
26 liability under the Use Tax Act or the Service Use Tax Act due
27 on the purchase, made on or after September 1, 2004, of
28 production related tangible personal property (including
29 purchases by a manufacturer, by a graphic arts producer, or a
30 lessor who rents or leases the use of the property to a
31 manufacturer or graphic arts producer) that does not otherwise
32 qualify for the manufacturing machinery and equipment
33 exemption or the graphic arts machinery and equipment
34 exemption. "Production related tangible personal property"
35 means (i) all tangible personal property used or consumed by
36 the purchaser in a manufacturing facility in which a

1 manufacturing process described in Section 2-45 of the
2 Retailers' Occupation Tax Act takes place, including tangible
3 personal property purchased for incorporation into real estate
4 within a manufacturing facility and including, but not limited
5 to, tangible personal property used or consumed in activities
6 such as pre-production material handling, receiving, quality
7 control, inventory control, storage, staging, and packaging
8 for shipping and transportation purposes; (ii) all tangible
9 personal property used or consumed by the purchaser in a
10 graphic arts facility in which graphic arts production as
11 described in Section 2-30 of the Retailers' Occupation Tax Act
12 takes place, including tangible personal property purchased
13 for incorporation into real estate within a graphic arts
14 facility and including, but not limited to, all tangible
15 personal property used or consumed in activities such as
16 graphic arts preliminary or pre-press production,
17 pre-production material handling, receiving, quality control,
18 inventory control, storage, staging, sorting, labeling,
19 mailing, tying, wrapping, and packaging; and (iii) all tangible
20 personal property used or consumed by the purchaser for
21 research and development. "Production related tangible
22 personal property" does not include (i) tangible personal
23 property used, within or without a manufacturing or graphic
24 arts facility, in sales, purchasing, accounting, fiscal
25 management, marketing, personnel recruitment or selection, or
26 landscaping or (ii) tangible personal property required to be
27 titled or registered with a department, agency, or unit of
28 federal, state, or local government. The Manufacturer's
29 Purchase Credit may be used to satisfy the tax arising either
30 from the purchase of machinery and equipment on or after
31 September 1, 2004 for which the manufacturing machinery and
32 equipment exemption provided by Section 2 of this Act was
33 erroneously claimed, or the purchase of machinery and equipment
34 on or after September 1, 2004 for which the exemption provided
35 by paragraph (5) of Section 3-5 of this Act was erroneously
36 claimed, but not in satisfaction of penalty, if any, and

1 interest for failure to pay the tax when due. A purchaser of
2 production related tangible personal property that is
3 purchased on or after September 1, 2004 who is required to pay
4 Illinois Use Tax or Service Use Tax on the purchase directly to
5 the Department may utilize the Manufacturer's Purchase Credit
6 in satisfaction of the tax arising from that purchase, but not
7 in satisfaction of penalty and interest. A purchaser who uses
8 the Manufacturer's Purchase Credit to purchase property on and
9 after September 1, 2004 which is later determined not to be
10 production related tangible personal property may be liable for
11 tax, penalty, and interest on the purchase of that property as
12 of the date of purchase but shall be entitled to use the
13 disallowed Manufacturer's Purchase Credit, so long as it has
14 not expired, on qualifying purchases of production related
15 tangible personal property not previously subject to credit
16 usage. The Manufacturer's Purchase Credit earned by a
17 manufacturer or graphic arts producer expires the last day of
18 the second calendar year following the calendar year in which
19 the credit arose.

20 A purchaser earning Manufacturer's Purchase Credit shall
21 sign and file an annual Report of Manufacturer's Purchase
22 Credit Earned for each calendar year no later than the last day
23 of the sixth month following the calendar year in which a
24 Manufacturer's Purchase Credit is earned. A Report of
25 Manufacturer's Purchase Credit Earned shall be filed on forms
26 as prescribed or approved by the Department and shall state,
27 for each month of the calendar year: (i) the total purchase
28 price of all purchases of exempt manufacturing or graphic arts
29 machinery on which the credit was earned; (ii) the total State
30 Use Tax or Service Use Tax which would have been due on those
31 items; (iii) the percentage used to calculate the amount of
32 credit earned; (iv) the amount of credit earned; and (v) such
33 other information as the Department may reasonably require. A
34 purchaser earning Manufacturer's Purchase Credit shall
35 maintain records which identify, as to each purchase of
36 manufacturing or graphic arts machinery and equipment on which

1 the purchaser earned Manufacturer's Purchase Credit, the
2 vendor (including, if applicable, either the vendor's
3 registration number or Federal Employer Identification
4 Number), the purchase price, and the amount of Manufacturer's
5 Purchase Credit earned on each purchase.

6 A purchaser using Manufacturer's Purchase Credit shall
7 sign and file an annual Report of Manufacturer's Purchase
8 Credit Used for each calendar year no later than the last day
9 of the sixth month following the calendar year in which a
10 Manufacturer's Purchase Credit is used. A Report of
11 Manufacturer's Purchase Credit Used shall be filed on forms as
12 prescribed or approved by the Department and shall state, for
13 each month of the calendar year: (i) the total purchase price
14 of production related tangible personal property purchased
15 from Illinois suppliers; (ii) the total purchase price of
16 production related tangible personal property purchased from
17 out-of-state suppliers; (iii) the total amount of credit used
18 during such month; and (iv) such other information as the
19 Department may reasonably require. A purchaser using
20 Manufacturer's Purchase Credit shall maintain records that
21 identify, as to each purchase of production related tangible
22 personal property on which the purchaser used Manufacturer's
23 Purchase Credit, the vendor (including, if applicable, either
24 the vendor's registration number or Federal Employer
25 Identification Number), the purchase price, and the amount of
26 Manufacturer's Purchase Credit used on each purchase.

27 A purchaser that fails to file an annual Report of
28 Manufacturer's Purchase Credit Earned or an annual Report of
29 Manufacturer's Purchase Credit Used by the last day of the
30 sixth month following the end of the calendar year shall
31 forfeit all Manufacturer's Purchase Credit for that calendar
32 year unless it establishes that its failure to file was due to
33 reasonable cause. Manufacturer's Purchase Credit reports may
34 be amended to report and claim credit on qualifying purchases
35 not previously reported at any time before the credit would
36 have expired, unless both the Department and the purchaser have

1 agreed to an extension of the statute of limitations for the
2 issuance of a notice of tax liability as provided in Section 4
3 of the Retailers' Occupation Tax Act. If the time for
4 assessment or refund has been extended, then amended reports
5 for a calendar year may be filed at any time prior to the date
6 to which the statute of limitations for the calendar year or
7 portion thereof has been extended. Manufacturer's Purchase
8 Credit claimed on an amended report may be used to satisfy tax
9 liability under the Use Tax Act or the Service Use Tax Act (i)
10 on qualifying purchases of production related tangible
11 personal property made after the date the amended report is
12 filed or (ii) assessed by the Department on qualifying
13 production related tangible personal property purchased on or
14 after September 1, 2004.

15 If the purchaser is not the manufacturer or a graphic arts
16 producer, but rents or leases the use of the property to a
17 manufacturer or a graphic arts producer, the purchaser may
18 earn, report, and use Manufacturer's Purchase Credit in the
19 same manner as a manufacturer or graphic arts producer. A
20 purchaser shall not be entitled to any Manufacturer's Purchase
21 Credit for a purchase that is required to be reported and is
22 not timely reported as provided in this Section. A purchaser
23 remains liable for (i) any tax that was satisfied by use of a
24 Manufacturer's Purchase Credit, as of the date of purchase, if
25 that use is not timely reported as required in this Section and
26 (ii) for any applicable penalties and interest for failing to
27 pay the tax when due.

28 (Source: P.A. 93-24, eff. 6-20-03.)

29 Section 20-20. The Service Occupation Tax Act is amended by
30 changing Sections 3-5 and 9 as follows:

31 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

32 Sec. 3-5. Exemptions. The following tangible personal
33 property is exempt from the tax imposed by this Act:

34 (1) Personal property sold by a corporation, society,

1 association, foundation, institution, or organization, other
2 than a limited liability company, that is organized and
3 operated as a not-for-profit service enterprise for the benefit
4 of persons 65 years of age or older if the personal property
5 was not purchased by the enterprise for the purpose of resale
6 by the enterprise.

7 (2) Personal property purchased by a not-for-profit
8 Illinois county fair association for use in conducting,
9 operating, or promoting the county fair.

10 (3) Personal property purchased by any not-for-profit arts
11 or cultural organization that establishes, by proof required by
12 the Department by rule, that it has received an exemption under
13 Section 501(c)(3) of the Internal Revenue Code and that is
14 organized and operated primarily for the presentation or
15 support of arts or cultural programming, activities, or
16 services. These organizations include, but are not limited to,
17 music and dramatic arts organizations such as symphony
18 orchestras and theatrical groups, arts and cultural service
19 organizations, local arts councils, visual arts organizations,
20 and media arts organizations. On and after the effective date
21 of this amendatory Act of the 92nd General Assembly, however,
22 an entity otherwise eligible for this exemption shall not make
23 tax-free purchases unless it has an active identification
24 number issued by the Department.

25 (4) Legal tender, currency, medallions, or gold or silver
26 coinage issued by the State of Illinois, the government of the
27 United States of America, or the government of any foreign
28 country, and bullion.

29 (5) Until July 1, 2003 and beginning again on September 1,
30 2004, graphic arts machinery and equipment, including repair
31 and replacement parts, both new and used, and including that
32 manufactured on special order or purchased for lease, certified
33 by the purchaser to be used primarily for graphic arts
34 production. Equipment includes chemicals or chemicals acting
35 as catalysts but only if the chemicals or chemicals acting as
36 catalysts effect a direct and immediate change upon a graphic

1 arts product.

2 (6) Personal property sold by a teacher-sponsored student
3 organization affiliated with an elementary or secondary school
4 located in Illinois.

5 (7) Farm machinery and equipment, both new and used,
6 including that manufactured on special order, certified by the
7 purchaser to be used primarily for production agriculture or
8 State or federal agricultural programs, including individual
9 replacement parts for the machinery and equipment, including
10 machinery and equipment purchased for lease, and including
11 implements of husbandry defined in Section 1-130 of the
12 Illinois Vehicle Code, farm machinery and agricultural
13 chemical and fertilizer spreaders, and nurse wagons required to
14 be registered under Section 3-809 of the Illinois Vehicle Code,
15 but excluding other motor vehicles required to be registered
16 under the Illinois Vehicle Code. Horticultural polyhouses or
17 hoop houses used for propagating, growing, or overwintering
18 plants shall be considered farm machinery and equipment under
19 this item (7). Agricultural chemical tender tanks and dry boxes
20 shall include units sold separately from a motor vehicle
21 required to be licensed and units sold mounted on a motor
22 vehicle required to be licensed if the selling price of the
23 tender is separately stated.

24 Farm machinery and equipment shall include precision
25 farming equipment that is installed or purchased to be
26 installed on farm machinery and equipment including, but not
27 limited to, tractors, harvesters, sprayers, planters, seeders,
28 or spreaders. Precision farming equipment includes, but is not
29 limited to, soil testing sensors, computers, monitors,
30 software, global positioning and mapping systems, and other
31 such equipment.

32 Farm machinery and equipment also includes computers,
33 sensors, software, and related equipment used primarily in the
34 computer-assisted operation of production agriculture
35 facilities, equipment, and activities such as, but not limited
36 to, the collection, monitoring, and correlation of animal and

1 crop data for the purpose of formulating animal diets and
2 agricultural chemicals. This item (7) is exempt from the
3 provisions of Section 3-55.

4 (8) Fuel and petroleum products sold to or used by an air
5 common carrier, certified by the carrier to be used for
6 consumption, shipment, or storage in the conduct of its
7 business as an air common carrier, for a flight destined for or
8 returning from a location or locations outside the United
9 States without regard to previous or subsequent domestic
10 stopovers.

11 (9) Proceeds of mandatory service charges separately
12 stated on customers' bills for the purchase and consumption of
13 food and beverages, to the extent that the proceeds of the
14 service charge are in fact turned over as tips or as a
15 substitute for tips to the employees who participate directly
16 in preparing, serving, hosting or cleaning up the food or
17 beverage function with respect to which the service charge is
18 imposed.

19 (10) Until July 1, 2003, oil field exploration, drilling,
20 and production equipment, including (i) rigs and parts of rigs,
21 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
22 tubular goods, including casing and drill strings, (iii) pumps
23 and pump-jack units, (iv) storage tanks and flow lines, (v) any
24 individual replacement part for oil field exploration,
25 drilling, and production equipment, and (vi) machinery and
26 equipment purchased for lease; but excluding motor vehicles
27 required to be registered under the Illinois Vehicle Code.

28 (11) Photoprocessing machinery and equipment, including
29 repair and replacement parts, both new and used, including that
30 manufactured on special order, certified by the purchaser to be
31 used primarily for photoprocessing, and including
32 photoprocessing machinery and equipment purchased for lease.

33 (12) Until July 1, 2003, coal exploration, mining,
34 offhighway hauling, processing, maintenance, and reclamation
35 equipment, including replacement parts and equipment, and
36 including equipment purchased for lease, but excluding motor

1 vehicles required to be registered under the Illinois Vehicle
2 Code.

3 (13) Food for human consumption that is to be consumed off
4 the premises where it is sold (other than alcoholic beverages,
5 soft drinks and food that has been prepared for immediate
6 consumption) and prescription and non-prescription medicines,
7 drugs, medical appliances, and insulin, urine testing
8 materials, syringes, and needles used by diabetics, for human
9 use, when purchased for use by a person receiving medical
10 assistance under Article 5 of the Illinois Public Aid Code who
11 resides in a licensed long-term care facility, as defined in
12 the Nursing Home Care Act.

13 (14) Semen used for artificial insemination of livestock
14 for direct agricultural production.

15 (15) Horses, or interests in horses, registered with and
16 meeting the requirements of any of the Arabian Horse Club
17 Registry of America, Appaloosa Horse Club, American Quarter
18 Horse Association, United States Trotting Association, or
19 Jockey Club, as appropriate, used for purposes of breeding or
20 racing for prizes.

21 (16) Computers and communications equipment utilized for
22 any hospital purpose and equipment used in the diagnosis,
23 analysis, or treatment of hospital patients sold to a lessor
24 who leases the equipment, under a lease of one year or longer
25 executed or in effect at the time of the purchase, to a
26 hospital that has been issued an active tax exemption
27 identification number by the Department under Section 1g of the
28 Retailers' Occupation Tax Act.

29 (17) Personal property sold to a lessor who leases the
30 property, under a lease of one year or longer executed or in
31 effect at the time of the purchase, to a governmental body that
32 has been issued an active tax exemption identification number
33 by the Department under Section 1g of the Retailers' Occupation
34 Tax Act.

35 (18) Beginning with taxable years ending on or after
36 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is donated for
2 disaster relief to be used in a State or federally declared
3 disaster area in Illinois or bordering Illinois by a
4 manufacturer or retailer that is registered in this State to a
5 corporation, society, association, foundation, or institution
6 that has been issued a sales tax exemption identification
7 number by the Department that assists victims of the disaster
8 who reside within the declared disaster area.

9 (19) Beginning with taxable years ending on or after
10 December 31, 1995 and ending with taxable years ending on or
11 before December 31, 2004, personal property that is used in the
12 performance of infrastructure repairs in this State, including
13 but not limited to municipal roads and streets, access roads,
14 bridges, sidewalks, waste disposal systems, water and sewer
15 line extensions, water distribution and purification
16 facilities, storm water drainage and retention facilities, and
17 sewage treatment facilities, resulting from a State or
18 federally declared disaster in Illinois or bordering Illinois
19 when such repairs are initiated on facilities located in the
20 declared disaster area within 6 months after the disaster.

21 (20) Beginning July 1, 1999, game or game birds sold at a
22 "game breeding and hunting preserve area" or an "exotic game
23 hunting area" as those terms are used in the Wildlife Code or
24 at a hunting enclosure approved through rules adopted by the
25 Department of Natural Resources. This paragraph is exempt from
26 the provisions of Section 3-55.

27 (21) A motor vehicle, as that term is defined in Section
28 1-146 of the Illinois Vehicle Code, that is donated to a
29 corporation, limited liability company, society, association,
30 foundation, or institution that is determined by the Department
31 to be organized and operated exclusively for educational
32 purposes. For purposes of this exemption, "a corporation,
33 limited liability company, society, association, foundation,
34 or institution organized and operated exclusively for
35 educational purposes" means all tax-supported public schools,
36 private schools that offer systematic instruction in useful

1 branches of learning by methods common to public schools and
2 that compare favorably in their scope and intensity with the
3 course of study presented in tax-supported schools, and
4 vocational or technical schools or institutes organized and
5 operated exclusively to provide a course of study of not less
6 than 6 weeks duration and designed to prepare individuals to
7 follow a trade or to pursue a manual, technical, mechanical,
8 industrial, business, or commercial occupation.

9 (22) Beginning January 1, 2000, personal property,
10 including food, purchased through fundraising events for the
11 benefit of a public or private elementary or secondary school,
12 a group of those schools, or one or more school districts if
13 the events are sponsored by an entity recognized by the school
14 district that consists primarily of volunteers and includes
15 parents and teachers of the school children. This paragraph
16 does not apply to fundraising events (i) for the benefit of
17 private home instruction or (ii) for which the fundraising
18 entity purchases the personal property sold at the events from
19 another individual or entity that sold the property for the
20 purpose of resale by the fundraising entity and that profits
21 from the sale to the fundraising entity. This paragraph is
22 exempt from the provisions of Section 3-55.

23 (23) Beginning January 1, 2000 and through December 31,
24 2001, new or used automatic vending machines that prepare and
25 serve hot food and beverages, including coffee, soup, and other
26 items, and replacement parts for these machines. Beginning
27 January 1, 2002 and through June 30, 2003, machines and parts
28 for machines used in commercial, coin-operated amusement and
29 vending business if a use or occupation tax is paid on the
30 gross receipts derived from the use of the commercial,
31 coin-operated amusement and vending machines. This paragraph
32 is exempt from the provisions of Section 3-55.

33 (24) Beginning on the effective date of this amendatory Act
34 of the 92nd General Assembly, computers and communications
35 equipment utilized for any hospital purpose and equipment used
36 in the diagnosis, analysis, or treatment of hospital patients

1 sold to a lessor who leases the equipment, under a lease of one
2 year or longer executed or in effect at the time of the
3 purchase, to a hospital that has been issued an active tax
4 exemption identification number by the Department under
5 Section 1g of the Retailers' Occupation Tax Act. This paragraph
6 is exempt from the provisions of Section 3-55.

7 (25) Beginning on the effective date of this amendatory Act
8 of the 92nd General Assembly, personal property sold to a
9 lessor who leases the property, under a lease of one year or
10 longer executed or in effect at the time of the purchase, to a
11 governmental body that has been issued an active tax exemption
12 identification number by the Department under Section 1g of the
13 Retailers' Occupation Tax Act. This paragraph is exempt from
14 the provisions of Section 3-55.

15 (26) Beginning on January 1, 2002, tangible personal
16 property purchased from an Illinois retailer by a taxpayer
17 engaged in centralized purchasing activities in Illinois who
18 will, upon receipt of the property in Illinois, temporarily
19 store the property in Illinois (i) for the purpose of
20 subsequently transporting it outside this State for use or
21 consumption thereafter solely outside this State or (ii) for
22 the purpose of being processed, fabricated, or manufactured
23 into, attached to, or incorporated into other tangible personal
24 property to be transported outside this State and thereafter
25 used or consumed solely outside this State. The Director of
26 Revenue shall, pursuant to rules adopted in accordance with the
27 Illinois Administrative Procedure Act, issue a permit to any
28 taxpayer in good standing with the Department who is eligible
29 for the exemption under this paragraph (26). The permit issued
30 under this paragraph (26) shall authorize the holder, to the
31 extent and in the manner specified in the rules adopted under
32 this Act, to purchase tangible personal property from a
33 retailer exempt from the taxes imposed by this Act. Taxpayers
34 shall maintain all necessary books and records to substantiate
35 the use and consumption of all such tangible personal property
36 outside of the State of Illinois.

1 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
2 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
3 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 93-24, eff.
4 6-20-03.)

5 (35 ILCS 115/9) (from Ch. 120, par. 439.109)

6 Sec. 9. Each serviceman required or authorized to collect
7 the tax herein imposed shall pay to the Department the amount
8 of such tax at the time when he is required to file his return
9 for the period during which such tax was collectible, less a
10 discount of 2.1% prior to January 1, 1990, and 1.75% on and
11 after January 1, 1990, or \$5 per calendar year, whichever is
12 greater, which is allowed to reimburse the serviceman for
13 expenses incurred in collecting the tax, keeping records,
14 preparing and filing returns, remitting the tax and supplying
15 data to the Department on request.

16 Where such tangible personal property is sold under a
17 conditional sales contract, or under any other form of sale
18 wherein the payment of the principal sum, or a part thereof, is
19 extended beyond the close of the period for which the return is
20 filed, the serviceman, in collecting the tax may collect, for
21 each tax return period, only the tax applicable to the part of
22 the selling price actually received during such tax return
23 period.

24 Except as provided hereinafter in this Section, on or
25 before the twentieth day of each calendar month, such
26 serviceman shall file a return for the preceding calendar month
27 in accordance with reasonable rules and regulations to be
28 promulgated by the Department of Revenue. Such return shall be
29 filed on a form prescribed by the Department and shall contain
30 such information as the Department may reasonably require.

31 The Department may require returns to be filed on a
32 quarterly basis. If so required, a return for each calendar
33 quarter shall be filed on or before the twentieth day of the
34 calendar month following the end of such calendar quarter. The
35 taxpayer shall also file a return with the Department for each

1 of the first two months of each calendar quarter, on or before
2 the twentieth day of the following calendar month, stating:

3 1. The name of the seller;

4 2. The address of the principal place of business from
5 which he engages in business as a serviceman in this State;

6 3. The total amount of taxable receipts received by him
7 during the preceding calendar month, including receipts
8 from charge and time sales, but less all deductions allowed
9 by law;

10 4. The amount of credit provided in Section 2d of this
11 Act;

12 5. The amount of tax due;

13 5-5. The signature of the taxpayer; and

14 6. Such other reasonable information as the Department
15 may require.

16 If a taxpayer fails to sign a return within 30 days after
17 the proper notice and demand for signature by the Department,
18 the return shall be considered valid and any amount shown to be
19 due on the return shall be deemed assessed.

20 Prior to October 1, 2003, and on and after September 1,
21 2004 a serviceman may accept a Manufacturer's Purchase Credit
22 certification from a purchaser in satisfaction of Service Use
23 Tax as provided in Section 3-70 of the Service Use Tax Act if
24 the purchaser provides the appropriate documentation as
25 required by Section 3-70 of the Service Use Tax Act. A
26 Manufacturer's Purchase Credit certification, accepted prior
27 to October 1, 2003 or on or after September 1, 2004 by a
28 serviceman as provided in Section 3-70 of the Service Use Tax
29 Act, may be used by that serviceman to satisfy Service
30 Occupation Tax liability in the amount claimed in the
31 certification, not to exceed 6.25% of the receipts subject to
32 tax from a qualifying purchase. A Manufacturer's Purchase
33 Credit reported on any original or amended return filed under
34 this Act after October 20, 2003 for reporting periods prior to
35 September 1, 2004 shall be disallowed. Manufacturer's Purchase
36 Credit reported on annual returns due on or after January 1,

1 2005 will be disallowed for periods prior to September 1, 2004.

2 No Manufacturer's Purchase Credit may be used after September
3 30, 2003 through August 31, 2004 to satisfy any tax liability
4 imposed under this Act, including any audit liability.

5 If the serviceman's average monthly tax liability to the
6 Department does not exceed \$200, the Department may authorize
7 his returns to be filed on a quarter annual basis, with the
8 return for January, February and March of a given year being
9 due by April 20 of such year; with the return for April, May
10 and June of a given year being due by July 20 of such year; with
11 the return for July, August and September of a given year being
12 due by October 20 of such year, and with the return for
13 October, November and December of a given year being due by
14 January 20 of the following year.

15 If the serviceman's average monthly tax liability to the
16 Department does not exceed \$50, the Department may authorize
17 his returns to be filed on an annual basis, with the return for
18 a given year being due by January 20 of the following year.

19 Such quarter annual and annual returns, as to form and
20 substance, shall be subject to the same requirements as monthly
21 returns.

22 Notwithstanding any other provision in this Act concerning
23 the time within which a serviceman may file his return, in the
24 case of any serviceman who ceases to engage in a kind of
25 business which makes him responsible for filing returns under
26 this Act, such serviceman shall file a final return under this
27 Act with the Department not more than 1 month after
28 discontinuing such business.

29 Beginning October 1, 1993, a taxpayer who has an average
30 monthly tax liability of \$150,000 or more shall make all
31 payments required by rules of the Department by electronic
32 funds transfer. Beginning October 1, 1994, a taxpayer who has
33 an average monthly tax liability of \$100,000 or more shall make
34 all payments required by rules of the Department by electronic
35 funds transfer. Beginning October 1, 1995, a taxpayer who has
36 an average monthly tax liability of \$50,000 or more shall make

1 all payments required by rules of the Department by electronic
2 funds transfer. Beginning October 1, 2000, a taxpayer who has
3 an annual tax liability of \$200,000 or more shall make all
4 payments required by rules of the Department by electronic
5 funds transfer. The term "annual tax liability" shall be the
6 sum of the taxpayer's liabilities under this Act, and under all
7 other State and local occupation and use tax laws administered
8 by the Department, for the immediately preceding calendar year.
9 The term "average monthly tax liability" means the sum of the
10 taxpayer's liabilities under this Act, and under all other
11 State and local occupation and use tax laws administered by the
12 Department, for the immediately preceding calendar year
13 divided by 12. Beginning on October 1, 2002, a taxpayer who has
14 a tax liability in the amount set forth in subsection (b) of
15 Section 2505-210 of the Department of Revenue Law shall make
16 all payments required by rules of the Department by electronic
17 funds transfer.

18 Before August 1 of each year beginning in 1993, the
19 Department shall notify all taxpayers required to make payments
20 by electronic funds transfer. All taxpayers required to make
21 payments by electronic funds transfer shall make those payments
22 for a minimum of one year beginning on October 1.

23 Any taxpayer not required to make payments by electronic
24 funds transfer may make payments by electronic funds transfer
25 with the permission of the Department.

26 All taxpayers required to make payment by electronic funds
27 transfer and any taxpayers authorized to voluntarily make
28 payments by electronic funds transfer shall make those payments
29 in the manner authorized by the Department.

30 The Department shall adopt such rules as are necessary to
31 effectuate a program of electronic funds transfer and the
32 requirements of this Section.

33 Where a serviceman collects the tax with respect to the
34 selling price of tangible personal property which he sells and
35 the purchaser thereafter returns such tangible personal
36 property and the serviceman refunds the selling price thereof

1 to the purchaser, such serviceman shall also refund, to the
2 purchaser, the tax so collected from the purchaser. When filing
3 his return for the period in which he refunds such tax to the
4 purchaser, the serviceman may deduct the amount of the tax so
5 refunded by him to the purchaser from any other Service
6 Occupation Tax, Service Use Tax, Retailers' Occupation Tax or
7 Use Tax which such serviceman may be required to pay or remit
8 to the Department, as shown by such return, provided that the
9 amount of the tax to be deducted shall previously have been
10 remitted to the Department by such serviceman. If the
11 serviceman shall not previously have remitted the amount of
12 such tax to the Department, he shall be entitled to no
13 deduction hereunder upon refunding such tax to the purchaser.

14 If experience indicates such action to be practicable, the
15 Department may prescribe and furnish a combination or joint
16 return which will enable servicemen, who are required to file
17 returns hereunder and also under the Retailers' Occupation Tax
18 Act, the Use Tax Act or the Service Use Tax Act, to furnish all
19 the return information required by all said Acts on the one
20 form.

21 Where the serviceman has more than one business registered
22 with the Department under separate registrations hereunder,
23 such serviceman shall file separate returns for each registered
24 business.

25 Beginning January 1, 1990, each month the Department shall
26 pay into the Local Government Tax Fund the revenue realized for
27 the preceding month from the 1% tax on sales of food for human
28 consumption which is to be consumed off the premises where it
29 is sold (other than alcoholic beverages, soft drinks and food
30 which has been prepared for immediate consumption) and
31 prescription and nonprescription medicines, drugs, medical
32 appliances and insulin, urine testing materials, syringes and
33 needles used by diabetics.

34 Beginning January 1, 1990, each month the Department shall
35 pay into the County and Mass Transit District Fund 4% of the
36 revenue realized for the preceding month from the 6.25% general

1 rate.

2 Beginning August 1, 2000, each month the Department shall
3 pay into the County and Mass Transit District Fund 20% of the
4 net revenue realized for the preceding month from the 1.25%
5 rate on the selling price of motor fuel and gasohol.

6 Beginning January 1, 1990, each month the Department shall
7 pay into the Local Government Tax Fund 16% of the revenue
8 realized for the preceding month from the 6.25% general rate on
9 transfers of tangible personal property.

10 Beginning August 1, 2000, each month the Department shall
11 pay into the Local Government Tax Fund 80% of the net revenue
12 realized for the preceding month from the 1.25% rate on the
13 selling price of motor fuel and gasohol.

14 Of the remainder of the moneys received by the Department
15 pursuant to this Act, (a) 1.75% thereof shall be paid into the
16 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
17 and after July 1, 1989, 3.8% thereof shall be paid into the
18 Build Illinois Fund; provided, however, that if in any fiscal
19 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
20 may be, of the moneys received by the Department and required
21 to be paid into the Build Illinois Fund pursuant to Section 3
22 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax
23 Act, Section 9 of the Service Use Tax Act, and Section 9 of the
24 Service Occupation Tax Act, such Acts being hereinafter called
25 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case
26 may be, of moneys being hereinafter called the "Tax Act
27 Amount", and (2) the amount transferred to the Build Illinois
28 Fund from the State and Local Sales Tax Reform Fund shall be
29 less than the Annual Specified Amount (as defined in Section 3
30 of the Retailers' Occupation Tax Act), an amount equal to the
31 difference shall be immediately paid into the Build Illinois
32 Fund from other moneys received by the Department pursuant to
33 the Tax Acts; and further provided, that if on the last
34 business day of any month the sum of (1) the Tax Act Amount
35 required to be deposited into the Build Illinois Account in the
36 Build Illinois Fund during such month and (2) the amount

1 transferred during such month to the Build Illinois Fund from
2 the State and Local Sales Tax Reform Fund shall have been less
3 than 1/12 of the Annual Specified Amount, an amount equal to
4 the difference shall be immediately paid into the Build
5 Illinois Fund from other moneys received by the Department
6 pursuant to the Tax Acts; and, further provided, that in no
7 event shall the payments required under the preceding proviso
8 result in aggregate payments into the Build Illinois Fund
9 pursuant to this clause (b) for any fiscal year in excess of
10 the greater of (i) the Tax Act Amount or (ii) the Annual
11 Specified Amount for such fiscal year; and, further provided,
12 that the amounts payable into the Build Illinois Fund under
13 this clause (b) shall be payable only until such time as the
14 aggregate amount on deposit under each trust indenture securing
15 Bonds issued and outstanding pursuant to the Build Illinois
16 Bond Act is sufficient, taking into account any future
17 investment income, to fully provide, in accordance with such
18 indenture, for the defeasance of or the payment of the
19 principal of, premium, if any, and interest on the Bonds
20 secured by such indenture and on any Bonds expected to be
21 issued thereafter and all fees and costs payable with respect
22 thereto, all as certified by the Director of the Bureau of the
23 Budget (now Governor's Office of Management and Budget). If on
24 the last business day of any month in which Bonds are
25 outstanding pursuant to the Build Illinois Bond Act, the
26 aggregate of the moneys deposited in the Build Illinois Bond
27 Account in the Build Illinois Fund in such month shall be less
28 than the amount required to be transferred in such month from
29 the Build Illinois Bond Account to the Build Illinois Bond
30 Retirement and Interest Fund pursuant to Section 13 of the
31 Build Illinois Bond Act, an amount equal to such deficiency
32 shall be immediately paid from other moneys received by the
33 Department pursuant to the Tax Acts to the Build Illinois Fund;
34 provided, however, that any amounts paid to the Build Illinois
35 Fund in any fiscal year pursuant to this sentence shall be
36 deemed to constitute payments pursuant to clause (b) of the

1 preceding sentence and shall reduce the amount otherwise
 2 payable for such fiscal year pursuant to clause (b) of the
 3 preceding sentence. The moneys received by the Department
 4 pursuant to this Act and required to be deposited into the
 5 Build Illinois Fund are subject to the pledge, claim and charge
 6 set forth in Section 12 of the Build Illinois Bond Act.

7 Subject to payment of amounts into the Build Illinois Fund
 8 as provided in the preceding paragraph or in any amendment
 9 thereto hereafter enacted, the following specified monthly
 10 installment of the amount requested in the certificate of the
 11 Chairman of the Metropolitan Pier and Exposition Authority
 12 provided under Section 8.25f of the State Finance Act, but not
 13 in excess of the sums designated as "Total Deposit", shall be
 14 deposited in the aggregate from collections under Section 9 of
 15 the Use Tax Act, Section 9 of the Service Use Tax Act, Section
 16 9 of the Service Occupation Tax Act, and Section 3 of the
 17 Retailers' Occupation Tax Act into the McCormick Place
 18 Expansion Project Fund in the specified fiscal years.

	Fiscal Year	Total Deposit
19		
20	1993	\$0
21	1994	53,000,000
22	1995	58,000,000
23	1996	61,000,000
24	1997	64,000,000
25	1998	68,000,000
26	1999	71,000,000
27	2000	75,000,000
28	2001	80,000,000
29	2002	93,000,000
30	2003	99,000,000
31	2004	103,000,000
32	2005	108,000,000
33	2006	113,000,000
34	2007	119,000,000
35	2008	126,000,000

1	2009	132,000,000
2	2010	139,000,000
3	2011	146,000,000
4	2012	153,000,000
5	2013	161,000,000
6	2014	170,000,000
7	2015	179,000,000
8	2016	189,000,000
9	2017	199,000,000
10	2018	210,000,000
11	2019	221,000,000
12	2020	233,000,000
13	2021	246,000,000
14	2022	260,000,000
15	2023 and	275,000,000

16 each fiscal year
17 thereafter that bonds
18 are outstanding under
19 Section 13.2 of the
20 Metropolitan Pier and
21 Exposition Authority Act,
22 but not after fiscal year 2042.

23 Beginning July 20, 1993 and in each month of each fiscal
24 year thereafter, one-eighth of the amount requested in the
25 certificate of the Chairman of the Metropolitan Pier and
26 Exposition Authority for that fiscal year, less the amount
27 deposited into the McCormick Place Expansion Project Fund by
28 the State Treasurer in the respective month under subsection
29 (g) of Section 13 of the Metropolitan Pier and Exposition
30 Authority Act, plus cumulative deficiencies in the deposits
31 required under this Section for previous months and years,
32 shall be deposited into the McCormick Place Expansion Project
33 Fund, until the full amount requested for the fiscal year, but
34 not in excess of the amount specified above as "Total Deposit",
35 has been deposited.

36 Subject to payment of amounts into the Build Illinois Fund

1 and the McCormick Place Expansion Project Fund pursuant to the
2 preceding paragraphs or in any amendments thereto hereafter
3 enacted, beginning July 1, 1993, the Department shall each
4 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
5 the net revenue realized for the preceding month from the 6.25%
6 general rate on the selling price of tangible personal
7 property.

8 Subject to payment of amounts into the Build Illinois Fund
9 and the McCormick Place Expansion Project Fund pursuant to the
10 preceding paragraphs or in any amendments thereto hereafter
11 enacted, beginning with the receipt of the first report of
12 taxes paid by an eligible business and continuing for a 25-year
13 period, the Department shall each month pay into the Energy
14 Infrastructure Fund 80% of the net revenue realized from the
15 6.25% general rate on the selling price of Illinois-mined coal
16 that was sold to an eligible business. For purposes of this
17 paragraph, the term "eligible business" means a new electric
18 generating facility certified pursuant to Section 605-332 of
19 the Department of Commerce and Economic Opportunity Community
20 ~~Affairs~~ Law of the Civil Administrative Code of Illinois.

21 Remaining moneys received by the Department pursuant to
22 this Act shall be paid into the General Revenue Fund of the
23 State Treasury.

24 The Department may, upon separate written notice to a
25 taxpayer, require the taxpayer to prepare and file with the
26 Department on a form prescribed by the Department within not
27 less than 60 days after receipt of the notice an annual
28 information return for the tax year specified in the notice.
29 Such annual return to the Department shall include a statement
30 of gross receipts as shown by the taxpayer's last Federal
31 income tax return. If the total receipts of the business as
32 reported in the Federal income tax return do not agree with the
33 gross receipts reported to the Department of Revenue for the
34 same period, the taxpayer shall attach to his annual return a
35 schedule showing a reconciliation of the 2 amounts and the
36 reasons for the difference. The taxpayer's annual return to the

1 Department shall also disclose the cost of goods sold by the
2 taxpayer during the year covered by such return, opening and
3 closing inventories of such goods for such year, cost of goods
4 used from stock or taken from stock and given away by the
5 taxpayer during such year, pay roll information of the
6 taxpayer's business during such year and any additional
7 reasonable information which the Department deems would be
8 helpful in determining the accuracy of the monthly, quarterly
9 or annual returns filed by such taxpayer as hereinbefore
10 provided for in this Section.

11 If the annual information return required by this Section
12 is not filed when and as required, the taxpayer shall be liable
13 as follows:

14 (i) Until January 1, 1994, the taxpayer shall be liable
15 for a penalty equal to 1/6 of 1% of the tax due from such
16 taxpayer under this Act during the period to be covered by
17 the annual return for each month or fraction of a month
18 until such return is filed as required, the penalty to be
19 assessed and collected in the same manner as any other
20 penalty provided for in this Act.

21 (ii) On and after January 1, 1994, the taxpayer shall
22 be liable for a penalty as described in Section 3-4 of the
23 Uniform Penalty and Interest Act.

24 The chief executive officer, proprietor, owner or highest
25 ranking manager shall sign the annual return to certify the
26 accuracy of the information contained therein. Any person who
27 willfully signs the annual return containing false or
28 inaccurate information shall be guilty of perjury and punished
29 accordingly. The annual return form prescribed by the
30 Department shall include a warning that the person signing the
31 return may be liable for perjury.

32 The foregoing portion of this Section concerning the filing
33 of an annual information return shall not apply to a serviceman
34 who is not required to file an income tax return with the
35 United States Government.

36 As soon as possible after the first day of each month, upon

1 certification of the Department of Revenue, the Comptroller
2 shall order transferred and the Treasurer shall transfer from
3 the General Revenue Fund to the Motor Fuel Tax Fund an amount
4 equal to 1.7% of 80% of the net revenue realized under this Act
5 for the second preceding month. Beginning April 1, 2000, this
6 transfer is no longer required and shall not be made.

7 Net revenue realized for a month shall be the revenue
8 collected by the State pursuant to this Act, less the amount
9 paid out during that month as refunds to taxpayers for
10 overpayment of liability.

11 For greater simplicity of administration, it shall be
12 permissible for manufacturers, importers and wholesalers whose
13 products are sold by numerous servicemen in Illinois, and who
14 wish to do so, to assume the responsibility for accounting and
15 paying to the Department all tax accruing under this Act with
16 respect to such sales, if the servicemen who are affected do
17 not make written objection to the Department to this
18 arrangement.

19 (Source: P.A. 92-12, eff. 7-1-01; 92-208, eff. 8-2-01; 92-492,
20 eff. 1-1-02; 92-600, eff. 6-28-02; 92-651, eff. 7-11-02; 93-24,
21 eff. 6-20-03; revised 10-15-03.)

22 Section 20-25. The Retailers' Occupation Tax Act is amended
23 by changing Sections 2-5 and 3 as follows:

24 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

25 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
26 sale of the following tangible personal property are exempt
27 from the tax imposed by this Act:

28 (1) Farm chemicals.

29 (2) Farm machinery and equipment, both new and used,
30 including that manufactured on special order, certified by the
31 purchaser to be used primarily for production agriculture or
32 State or federal agricultural programs, including individual
33 replacement parts for the machinery and equipment, including
34 machinery and equipment purchased for lease, and including

1 implements of husbandry defined in Section 1-130 of the
2 Illinois Vehicle Code, farm machinery and agricultural
3 chemical and fertilizer spreaders, and nurse wagons required to
4 be registered under Section 3-809 of the Illinois Vehicle Code,
5 but excluding other motor vehicles required to be registered
6 under the Illinois Vehicle Code. Horticultural polyhouses or
7 hoop houses used for propagating, growing, or overwintering
8 plants shall be considered farm machinery and equipment under
9 this item (2). Agricultural chemical tender tanks and dry boxes
10 shall include units sold separately from a motor vehicle
11 required to be licensed and units sold mounted on a motor
12 vehicle required to be licensed, if the selling price of the
13 tender is separately stated.

14 Farm machinery and equipment shall include precision
15 farming equipment that is installed or purchased to be
16 installed on farm machinery and equipment including, but not
17 limited to, tractors, harvesters, sprayers, planters, seeders,
18 or spreaders. Precision farming equipment includes, but is not
19 limited to, soil testing sensors, computers, monitors,
20 software, global positioning and mapping systems, and other
21 such equipment.

22 Farm machinery and equipment also includes computers,
23 sensors, software, and related equipment used primarily in the
24 computer-assisted operation of production agriculture
25 facilities, equipment, and activities such as, but not limited
26 to, the collection, monitoring, and correlation of animal and
27 crop data for the purpose of formulating animal diets and
28 agricultural chemicals. This item (7) is exempt from the
29 provisions of Section 2-70.

30 (3) Until July 1, 2003, distillation machinery and
31 equipment, sold as a unit or kit, assembled or installed by the
32 retailer, certified by the user to be used only for the
33 production of ethyl alcohol that will be used for consumption
34 as motor fuel or as a component of motor fuel for the personal
35 use of the user, and not subject to sale or resale.

36 (4) Until July 1, 2003 and beginning again September 1,

1 2004, graphic arts machinery and equipment, including repair
2 and replacement parts, both new and used, and including that
3 manufactured on special order or purchased for lease, certified
4 by the purchaser to be used primarily for graphic arts
5 production. Equipment includes chemicals or chemicals acting
6 as catalysts but only if the chemicals or chemicals acting as
7 catalysts effect a direct and immediate change upon a graphic
8 arts product.

9 (5) A motor vehicle of the first division, a motor vehicle
10 of the second division that is a self-contained motor vehicle
11 designed or permanently converted to provide living quarters
12 for recreational, camping, or travel use, with direct walk
13 through access to the living quarters from the driver's seat,
14 or a motor vehicle of the second division that is of the van
15 configuration designed for the transportation of not less than
16 7 nor more than 16 passengers, as defined in Section 1-146 of
17 the Illinois Vehicle Code, that is used for automobile renting,
18 as defined in the Automobile Renting Occupation and Use Tax
19 Act.

20 (6) Personal property sold by a teacher-sponsored student
21 organization affiliated with an elementary or secondary school
22 located in Illinois.

23 (7) Until July 1, 2003, proceeds of that portion of the
24 selling price of a passenger car the sale of which is subject
25 to the Replacement Vehicle Tax.

26 (8) Personal property sold to an Illinois county fair
27 association for use in conducting, operating, or promoting the
28 county fair.

29 (9) Personal property sold to a not-for-profit arts or
30 cultural organization that establishes, by proof required by
31 the Department by rule, that it has received an exemption under
32 Section 501(c)(3) of the Internal Revenue Code and that is
33 organized and operated primarily for the presentation or
34 support of arts or cultural programming, activities, or
35 services. These organizations include, but are not limited to,
36 music and dramatic arts organizations such as symphony

1 orchestras and theatrical groups, arts and cultural service
2 organizations, local arts councils, visual arts organizations,
3 and media arts organizations. On and after the effective date
4 of this amendatory Act of the 92nd General Assembly, however,
5 an entity otherwise eligible for this exemption shall not make
6 tax-free purchases unless it has an active identification
7 number issued by the Department.

8 (10) Personal property sold by a corporation, society,
9 association, foundation, institution, or organization, other
10 than a limited liability company, that is organized and
11 operated as a not-for-profit service enterprise for the benefit
12 of persons 65 years of age or older if the personal property
13 was not purchased by the enterprise for the purpose of resale
14 by the enterprise.

15 (11) Personal property sold to a governmental body, to a
16 corporation, society, association, foundation, or institution
17 organized and operated exclusively for charitable, religious,
18 or educational purposes, or to a not-for-profit corporation,
19 society, association, foundation, institution, or organization
20 that has no compensated officers or employees and that is
21 organized and operated primarily for the recreation of persons
22 55 years of age or older. A limited liability company may
23 qualify for the exemption under this paragraph only if the
24 limited liability company is organized and operated
25 exclusively for educational purposes. On and after July 1,
26 1987, however, no entity otherwise eligible for this exemption
27 shall make tax-free purchases unless it has an active
28 identification number issued by the Department.

29 (12) Tangible personal property sold to interstate
30 carriers for hire for use as rolling stock moving in interstate
31 commerce or to lessors under leases of one year or longer
32 executed or in effect at the time of purchase by interstate
33 carriers for hire for use as rolling stock moving in interstate
34 commerce and equipment operated by a telecommunications
35 provider, licensed as a common carrier by the Federal
36 Communications Commission, which is permanently installed in

1 or affixed to aircraft moving in interstate commerce.

2 (12-5) On and after July 1, 2003, motor vehicles of the
3 second division with a gross vehicle weight in excess of 8,000
4 pounds that are subject to the commercial distribution fee
5 imposed under Section 3-815.1 of the Illinois Vehicle Code.
6 This exemption applies to repair and replacement parts added
7 after the initial purchase of such a motor vehicle if that
8 motor vehicle is used in a manner that would qualify for the
9 rolling stock exemption otherwise provided for in this Act.

10 (13) Proceeds from sales to owners, lessors, or shippers of
11 tangible personal property that is utilized by interstate
12 carriers for hire for use as rolling stock moving in interstate
13 commerce and equipment operated by a telecommunications
14 provider, licensed as a common carrier by the Federal
15 Communications Commission, which is permanently installed in
16 or affixed to aircraft moving in interstate commerce.

17 (14) Machinery and equipment that will be used by the
18 purchaser, or a lessee of the purchaser, primarily in the
19 process of manufacturing or assembling tangible personal
20 property for wholesale or retail sale or lease, whether the
21 sale or lease is made directly by the manufacturer or by some
22 other person, whether the materials used in the process are
23 owned by the manufacturer or some other person, or whether the
24 sale or lease is made apart from or as an incident to the
25 seller's engaging in the service occupation of producing
26 machines, tools, dies, jigs, patterns, gauges, or other similar
27 items of no commercial value on special order for a particular
28 purchaser.

29 (15) Proceeds of mandatory service charges separately
30 stated on customers' bills for purchase and consumption of food
31 and beverages, to the extent that the proceeds of the service
32 charge are in fact turned over as tips or as a substitute for
33 tips to the employees who participate directly in preparing,
34 serving, hosting or cleaning up the food or beverage function
35 with respect to which the service charge is imposed.

36 (16) Petroleum products sold to a purchaser if the seller

1 is prohibited by federal law from charging tax to the
2 purchaser.

3 (17) Tangible personal property sold to a common carrier by
4 rail or motor that receives the physical possession of the
5 property in Illinois and that transports the property, or
6 shares with another common carrier in the transportation of the
7 property, out of Illinois on a standard uniform bill of lading
8 showing the seller of the property as the shipper or consignor
9 of the property to a destination outside Illinois, for use
10 outside Illinois.

11 (18) Legal tender, currency, medallions, or gold or silver
12 coinage issued by the State of Illinois, the government of the
13 United States of America, or the government of any foreign
14 country, and bullion.

15 (19) Until July 1 2003, oil field exploration, drilling,
16 and production equipment, including (i) rigs and parts of rigs,
17 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
18 tubular goods, including casing and drill strings, (iii) pumps
19 and pump-jack units, (iv) storage tanks and flow lines, (v) any
20 individual replacement part for oil field exploration,
21 drilling, and production equipment, and (vi) machinery and
22 equipment purchased for lease; but excluding motor vehicles
23 required to be registered under the Illinois Vehicle Code.

24 (20) Photoprocessing machinery and equipment, including
25 repair and replacement parts, both new and used, including that
26 manufactured on special order, certified by the purchaser to be
27 used primarily for photoprocessing, and including
28 photoprocessing machinery and equipment purchased for lease.

29 (21) Until July 1, 2003, coal exploration, mining,
30 offhighway hauling, processing, maintenance, and reclamation
31 equipment, including replacement parts and equipment, and
32 including equipment purchased for lease, but excluding motor
33 vehicles required to be registered under the Illinois Vehicle
34 Code.

35 (22) Fuel and petroleum products sold to or used by an air
36 carrier, certified by the carrier to be used for consumption,

1 shipment, or storage in the conduct of its business as an air
2 common carrier, for a flight destined for or returning from a
3 location or locations outside the United States without regard
4 to previous or subsequent domestic stopovers.

5 (23) A transaction in which the purchase order is received
6 by a florist who is located outside Illinois, but who has a
7 florist located in Illinois deliver the property to the
8 purchaser or the purchaser's donee in Illinois.

9 (24) Fuel consumed or used in the operation of ships,
10 barges, or vessels that are used primarily in or for the
11 transportation of property or the conveyance of persons for
12 hire on rivers bordering on this State if the fuel is delivered
13 by the seller to the purchaser's barge, ship, or vessel while
14 it is afloat upon that bordering river.

15 (25) A motor vehicle sold in this State to a nonresident
16 even though the motor vehicle is delivered to the nonresident
17 in this State, if the motor vehicle is not to be titled in this
18 State, and if a drive-away permit is issued to the motor
19 vehicle as provided in Section 3-603 of the Illinois Vehicle
20 Code or if the nonresident purchaser has vehicle registration
21 plates to transfer to the motor vehicle upon returning to his
22 or her home state. The issuance of the drive-away permit or
23 having the out-of-state registration plates to be transferred
24 is prima facie evidence that the motor vehicle will not be
25 titled in this State.

26 (26) Semen used for artificial insemination of livestock
27 for direct agricultural production.

28 (27) Horses, or interests in horses, registered with and
29 meeting the requirements of any of the Arabian Horse Club
30 Registry of America, Appaloosa Horse Club, American Quarter
31 Horse Association, United States Trotting Association, or
32 Jockey Club, as appropriate, used for purposes of breeding or
33 racing for prizes.

34 (28) Computers and communications equipment utilized for
35 any hospital purpose and equipment used in the diagnosis,
36 analysis, or treatment of hospital patients sold to a lessor

1 who leases the equipment, under a lease of one year or longer
2 executed or in effect at the time of the purchase, to a
3 hospital that has been issued an active tax exemption
4 identification number by the Department under Section 1g of
5 this Act.

6 (29) Personal property sold to a lessor who leases the
7 property, under a lease of one year or longer executed or in
8 effect at the time of the purchase, to a governmental body that
9 has been issued an active tax exemption identification number
10 by the Department under Section 1g of this Act.

11 (30) Beginning with taxable years ending on or after
12 December 31, 1995 and ending with taxable years ending on or
13 before December 31, 2004, personal property that is donated for
14 disaster relief to be used in a State or federally declared
15 disaster area in Illinois or bordering Illinois by a
16 manufacturer or retailer that is registered in this State to a
17 corporation, society, association, foundation, or institution
18 that has been issued a sales tax exemption identification
19 number by the Department that assists victims of the disaster
20 who reside within the declared disaster area.

21 (31) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is used in the
24 performance of infrastructure repairs in this State, including
25 but not limited to municipal roads and streets, access roads,
26 bridges, sidewalks, waste disposal systems, water and sewer
27 line extensions, water distribution and purification
28 facilities, storm water drainage and retention facilities, and
29 sewage treatment facilities, resulting from a State or
30 federally declared disaster in Illinois or bordering Illinois
31 when such repairs are initiated on facilities located in the
32 declared disaster area within 6 months after the disaster.

33 (32) Beginning July 1, 1999, game or game birds sold at a
34 "game breeding and hunting preserve area" or an "exotic game
35 hunting area" as those terms are used in the Wildlife Code or
36 at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from
2 the provisions of Section 2-70.

3 (33) A motor vehicle, as that term is defined in Section
4 1-146 of the Illinois Vehicle Code, that is donated to a
5 corporation, limited liability company, society, association,
6 foundation, or institution that is determined by the Department
7 to be organized and operated exclusively for educational
8 purposes. For purposes of this exemption, "a corporation,
9 limited liability company, society, association, foundation,
10 or institution organized and operated exclusively for
11 educational purposes" means all tax-supported public schools,
12 private schools that offer systematic instruction in useful
13 branches of learning by methods common to public schools and
14 that compare favorably in their scope and intensity with the
15 course of study presented in tax-supported schools, and
16 vocational or technical schools or institutes organized and
17 operated exclusively to provide a course of study of not less
18 than 6 weeks duration and designed to prepare individuals to
19 follow a trade or to pursue a manual, technical, mechanical,
20 industrial, business, or commercial occupation.

21 (34) Beginning January 1, 2000, personal property,
22 including food, purchased through fundraising events for the
23 benefit of a public or private elementary or secondary school,
24 a group of those schools, or one or more school districts if
25 the events are sponsored by an entity recognized by the school
26 district that consists primarily of volunteers and includes
27 parents and teachers of the school children. This paragraph
28 does not apply to fundraising events (i) for the benefit of
29 private home instruction or (ii) for which the fundraising
30 entity purchases the personal property sold at the events from
31 another individual or entity that sold the property for the
32 purpose of resale by the fundraising entity and that profits
33 from the sale to the fundraising entity. This paragraph is
34 exempt from the provisions of Section 2-70.

35 (35) Beginning January 1, 2000 and through December 31,
36 2001, new or used automatic vending machines that prepare and

1 serve hot food and beverages, including coffee, soup, and other
2 items, and replacement parts for these machines. Beginning
3 January 1, 2002 and through June 30, 2003, machines and parts
4 for machines used in commercial, coin-operated amusement and
5 vending business if a use or occupation tax is paid on the
6 gross receipts derived from the use of the commercial,
7 coin-operated amusement and vending machines. This paragraph
8 is exempt from the provisions of Section 2-70.

9 (35-5) Food for human consumption that is to be consumed
10 off the premises where it is sold (other than alcoholic
11 beverages, soft drinks, and food that has been prepared for
12 immediate consumption) and prescription and nonprescription
13 medicines, drugs, medical appliances, and insulin, urine
14 testing materials, syringes, and needles used by diabetics, for
15 human use, when purchased for use by a person receiving medical
16 assistance under Article 5 of the Illinois Public Aid Code who
17 resides in a licensed long-term care facility, as defined in
18 the Nursing Home Care Act.

19 (36) Beginning August 2, 2001, computers and
20 communications equipment utilized for any hospital purpose and
21 equipment used in the diagnosis, analysis, or treatment of
22 hospital patients sold to a lessor who leases the equipment,
23 under a lease of one year or longer executed or in effect at
24 the time of the purchase, to a hospital that has been issued an
25 active tax exemption identification number by the Department
26 under Section 1g of this Act. This paragraph is exempt from the
27 provisions of Section 2-70.

28 (37) Beginning August 2, 2001, personal property sold to a
29 lessor who leases the property, under a lease of one year or
30 longer executed or in effect at the time of the purchase, to a
31 governmental body that has been issued an active tax exemption
32 identification number by the Department under Section 1g of
33 this Act. This paragraph is exempt from the provisions of
34 Section 2-70.

35 (38) Beginning on January 1, 2002, tangible personal
36 property purchased from an Illinois retailer by a taxpayer

1 engaged in centralized purchasing activities in Illinois who
2 will, upon receipt of the property in Illinois, temporarily
3 store the property in Illinois (i) for the purpose of
4 subsequently transporting it outside this State for use or
5 consumption thereafter solely outside this State or (ii) for
6 the purpose of being processed, fabricated, or manufactured
7 into, attached to, or incorporated into other tangible personal
8 property to be transported outside this State and thereafter
9 used or consumed solely outside this State. The Director of
10 Revenue shall, pursuant to rules adopted in accordance with the
11 Illinois Administrative Procedure Act, issue a permit to any
12 taxpayer in good standing with the Department who is eligible
13 for the exemption under this paragraph (38). The permit issued
14 under this paragraph (38) shall authorize the holder, to the
15 extent and in the manner specified in the rules adopted under
16 this Act, to purchase tangible personal property from a
17 retailer exempt from the taxes imposed by this Act. Taxpayers
18 shall maintain all necessary books and records to substantiate
19 the use and consumption of all such tangible personal property
20 outside of the State of Illinois.

21 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
22 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
23 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
24 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; revised
25 9-11-03.)

26 (35 ILCS 120/3) (from Ch. 120, par. 442)

27 Sec. 3. Except as provided in this Section, on or before
28 the twentieth day of each calendar month, every person engaged
29 in the business of selling tangible personal property at retail
30 in this State during the preceding calendar month shall file a
31 return with the Department, stating:

32 1. The name of the seller;

33 2. His residence address and the address of his
34 principal place of business and the address of the
35 principal place of business (if that is a different

1 address) from which he engages in the business of selling
2 tangible personal property at retail in this State;

3 3. Total amount of receipts received by him during the
4 preceding calendar month or quarter, as the case may be,
5 from sales of tangible personal property, and from services
6 furnished, by him during such preceding calendar month or
7 quarter;

8 4. Total amount received by him during the preceding
9 calendar month or quarter on charge and time sales of
10 tangible personal property, and from services furnished,
11 by him prior to the month or quarter for which the return
12 is filed;

13 5. Deductions allowed by law;

14 6. Gross receipts which were received by him during the
15 preceding calendar month or quarter and upon the basis of
16 which the tax is imposed;

17 7. The amount of credit provided in Section 2d of this
18 Act;

19 8. The amount of tax due;

20 9. The signature of the taxpayer; and

21 10. Such other reasonable information as the
22 Department may require.

23 If a taxpayer fails to sign a return within 30 days after
24 the proper notice and demand for signature by the Department,
25 the return shall be considered valid and any amount shown to be
26 due on the return shall be deemed assessed.

27 Each return shall be accompanied by the statement of
28 prepaid tax issued pursuant to Section 2e for which credit is
29 claimed.

30 Prior to October 1, 2003, and on and after September 1,
31 2004 a retailer may accept a Manufacturer's Purchase Credit
32 certification from a purchaser in satisfaction of Use Tax as
33 provided in Section 3-85 of the Use Tax Act if the purchaser
34 provides the appropriate documentation as required by Section
35 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit
36 certification, accepted by a retailer prior to October 1, 2003

1 and on and after September 1, 2004 as provided in Section 3-85
2 of the Use Tax Act, may be used by that retailer to satisfy
3 Retailers' Occupation Tax liability in the amount claimed in
4 the certification, not to exceed 6.25% of the receipts subject
5 to tax from a qualifying purchase. A Manufacturer's Purchase
6 Credit reported on any original or amended return filed under
7 this Act after October 20, 2003 for reporting periods prior to
8 September 1, 2004 shall be disallowed. Manufacturer's
9 Purchaser Credit reported on annual returns due on or after
10 January 1, 2005 will be disallowed for periods prior to
11 September 1, 2004. No Manufacturer's Purchase Credit may be
12 used after September 30, 2003 through August 31, 2004 to
13 satisfy any tax liability imposed under this Act, including any
14 audit liability.

15 The Department may require returns to be filed on a
16 quarterly basis. If so required, a return for each calendar
17 quarter shall be filed on or before the twentieth day of the
18 calendar month following the end of such calendar quarter. The
19 taxpayer shall also file a return with the Department for each
20 of the first two months of each calendar quarter, on or before
21 the twentieth day of the following calendar month, stating:

22 1. The name of the seller;

23 2. The address of the principal place of business from
24 which he engages in the business of selling tangible
25 personal property at retail in this State;

26 3. The total amount of taxable receipts received by him
27 during the preceding calendar month from sales of tangible
28 personal property by him during such preceding calendar
29 month, including receipts from charge and time sales, but
30 less all deductions allowed by law;

31 4. The amount of credit provided in Section 2d of this
32 Act;

33 5. The amount of tax due; and

34 6. Such other reasonable information as the Department
35 may require.

36 Beginning on October 1, 2003, any person who is not a

1 licensed distributor, importing distributor, or manufacturer,
2 as defined in the Liquor Control Act of 1934, but is engaged in
3 the business of selling, at retail, alcoholic liquor shall file
4 a statement with the Department of Revenue, in a format and at
5 a time prescribed by the Department, showing the total amount
6 paid for alcoholic liquor purchased during the preceding month
7 and such other information as is reasonably required by the
8 Department. The Department may adopt rules to require that this
9 statement be filed in an electronic or telephonic format. Such
10 rules may provide for exceptions from the filing requirements
11 of this paragraph. For the purposes of this paragraph, the term
12 "alcoholic liquor" shall have the meaning prescribed in the
13 Liquor Control Act of 1934.

14 Beginning on October 1, 2003, every distributor, importing
15 distributor, and manufacturer of alcoholic liquor as defined in
16 the Liquor Control Act of 1934, shall file a statement with the
17 Department of Revenue, no later than the 10th day of the month
18 for the preceding month during which transactions occurred, by
19 electronic means, showing the total amount of gross receipts
20 from the sale of alcoholic liquor sold or distributed during
21 the preceding month to purchasers; identifying the purchaser to
22 whom it was sold or distributed; the purchaser's tax
23 registration number; and such other information reasonably
24 required by the Department. A copy of the monthly statement
25 shall be sent to the retailer no later than the 10th day of the
26 month for the preceding month during which transactions
27 occurred.

28 If a total amount of less than \$1 is payable, refundable or
29 creditable, such amount shall be disregarded if it is less than
30 50 cents and shall be increased to \$1 if it is 50 cents or more.

31 Beginning October 1, 1993, a taxpayer who has an average
32 monthly tax liability of \$150,000 or more shall make all
33 payments required by rules of the Department by electronic
34 funds transfer. Beginning October 1, 1994, a taxpayer who has
35 an average monthly tax liability of \$100,000 or more shall make
36 all payments required by rules of the Department by electronic

1 funds transfer. Beginning October 1, 1995, a taxpayer who has
2 an average monthly tax liability of \$50,000 or more shall make
3 all payments required by rules of the Department by electronic
4 funds transfer. Beginning October 1, 2000, a taxpayer who has
5 an annual tax liability of \$200,000 or more shall make all
6 payments required by rules of the Department by electronic
7 funds transfer. The term "annual tax liability" shall be the
8 sum of the taxpayer's liabilities under this Act, and under all
9 other State and local occupation and use tax laws administered
10 by the Department, for the immediately preceding calendar year.
11 The term "average monthly tax liability" shall be the sum of
12 the taxpayer's liabilities under this Act, and under all other
13 State and local occupation and use tax laws administered by the
14 Department, for the immediately preceding calendar year
15 divided by 12. Beginning on October 1, 2002, a taxpayer who has
16 a tax liability in the amount set forth in subsection (b) of
17 Section 2505-210 of the Department of Revenue Law shall make
18 all payments required by rules of the Department by electronic
19 funds transfer.

20 Before August 1 of each year beginning in 1993, the
21 Department shall notify all taxpayers required to make payments
22 by electronic funds transfer. All taxpayers required to make
23 payments by electronic funds transfer shall make those payments
24 for a minimum of one year beginning on October 1.

25 Any taxpayer not required to make payments by electronic
26 funds transfer may make payments by electronic funds transfer
27 with the permission of the Department.

28 All taxpayers required to make payment by electronic funds
29 transfer and any taxpayers authorized to voluntarily make
30 payments by electronic funds transfer shall make those payments
31 in the manner authorized by the Department.

32 The Department shall adopt such rules as are necessary to
33 effectuate a program of electronic funds transfer and the
34 requirements of this Section.

35 Any amount which is required to be shown or reported on any
36 return or other document under this Act shall, if such amount

1 is not a whole-dollar amount, be increased to the nearest
2 whole-dollar amount in any case where the fractional part of a
3 dollar is 50 cents or more, and decreased to the nearest
4 whole-dollar amount where the fractional part of a dollar is
5 less than 50 cents.

6 If the retailer is otherwise required to file a monthly
7 return and if the retailer's average monthly tax liability to
8 the Department does not exceed \$200, the Department may
9 authorize his returns to be filed on a quarter annual basis,
10 with the return for January, February and March of a given year
11 being due by April 20 of such year; with the return for April,
12 May and June of a given year being due by July 20 of such year;
13 with the return for July, August and September of a given year
14 being due by October 20 of such year, and with the return for
15 October, November and December of a given year being due by
16 January 20 of the following year.

17 If the retailer is otherwise required to file a monthly or
18 quarterly return and if the retailer's average monthly tax
19 liability with the Department does not exceed \$50, the
20 Department may authorize his returns to be filed on an annual
21 basis, with the return for a given year being due by January 20
22 of the following year.

23 Such quarter annual and annual returns, as to form and
24 substance, shall be subject to the same requirements as monthly
25 returns.

26 Notwithstanding any other provision in this Act concerning
27 the time within which a retailer may file his return, in the
28 case of any retailer who ceases to engage in a kind of business
29 which makes him responsible for filing returns under this Act,
30 such retailer shall file a final return under this Act with the
31 Department not more than one month after discontinuing such
32 business.

33 Where the same person has more than one business registered
34 with the Department under separate registrations under this
35 Act, such person may not file each return that is due as a
36 single return covering all such registered businesses, but

1 shall file separate returns for each such registered business.

2 In addition, with respect to motor vehicles, watercraft,
3 aircraft, and trailers that are required to be registered with
4 an agency of this State, every retailer selling this kind of
5 tangible personal property shall file, with the Department,
6 upon a form to be prescribed and supplied by the Department, a
7 separate return for each such item of tangible personal
8 property which the retailer sells, except that if, in the same
9 transaction, (i) a retailer of aircraft, watercraft, motor
10 vehicles or trailers transfers more than one aircraft,
11 watercraft, motor vehicle or trailer to another aircraft,
12 watercraft, motor vehicle retailer or trailer retailer for the
13 purpose of resale or (ii) a retailer of aircraft, watercraft,
14 motor vehicles, or trailers transfers more than one aircraft,
15 watercraft, motor vehicle, or trailer to a purchaser for use as
16 a qualifying rolling stock as provided in Section 2-5 of this
17 Act, then that seller may report the transfer of all aircraft,
18 watercraft, motor vehicles or trailers involved in that
19 transaction to the Department on the same uniform
20 invoice-transaction reporting return form. For purposes of
21 this Section, "watercraft" means a Class 2, Class 3, or Class 4
22 watercraft as defined in Section 3-2 of the Boat Registration
23 and Safety Act, a personal watercraft, or any boat equipped
24 with an inboard motor.

25 Any retailer who sells only motor vehicles, watercraft,
26 aircraft, or trailers that are required to be registered with
27 an agency of this State, so that all retailers' occupation tax
28 liability is required to be reported, and is reported, on such
29 transaction reporting returns and who is not otherwise required
30 to file monthly or quarterly returns, need not file monthly or
31 quarterly returns. However, those retailers shall be required
32 to file returns on an annual basis.

33 The transaction reporting return, in the case of motor
34 vehicles or trailers that are required to be registered with an
35 agency of this State, shall be the same document as the Uniform
36 Invoice referred to in Section 5-402 of The Illinois Vehicle

1 Code and must show the name and address of the seller; the name
2 and address of the purchaser; the amount of the selling price
3 including the amount allowed by the retailer for traded-in
4 property, if any; the amount allowed by the retailer for the
5 traded-in tangible personal property, if any, to the extent to
6 which Section 1 of this Act allows an exemption for the value
7 of traded-in property; the balance payable after deducting such
8 trade-in allowance from the total selling price; the amount of
9 tax due from the retailer with respect to such transaction; the
10 amount of tax collected from the purchaser by the retailer on
11 such transaction (or satisfactory evidence that such tax is not
12 due in that particular instance, if that is claimed to be the
13 fact); the place and date of the sale; a sufficient
14 identification of the property sold; such other information as
15 is required in Section 5-402 of The Illinois Vehicle Code, and
16 such other information as the Department may reasonably
17 require.

18 The transaction reporting return in the case of watercraft
19 or aircraft must show the name and address of the seller; the
20 name and address of the purchaser; the amount of the selling
21 price including the amount allowed by the retailer for
22 traded-in property, if any; the amount allowed by the retailer
23 for the traded-in tangible personal property, if any, to the
24 extent to which Section 1 of this Act allows an exemption for
25 the value of traded-in property; the balance payable after
26 deducting such trade-in allowance from the total selling price;
27 the amount of tax due from the retailer with respect to such
28 transaction; the amount of tax collected from the purchaser by
29 the retailer on such transaction (or satisfactory evidence that
30 such tax is not due in that particular instance, if that is
31 claimed to be the fact); the place and date of the sale, a
32 sufficient identification of the property sold, and such other
33 information as the Department may reasonably require.

34 Such transaction reporting return shall be filed not later
35 than 20 days after the day of delivery of the item that is
36 being sold, but may be filed by the retailer at any time sooner

1 than that if he chooses to do so. The transaction reporting
2 return and tax remittance or proof of exemption from the
3 Illinois use tax may be transmitted to the Department by way of
4 the State agency with which, or State officer with whom the
5 tangible personal property must be titled or registered (if
6 titling or registration is required) if the Department and such
7 agency or State officer determine that this procedure will
8 expedite the processing of applications for title or
9 registration.

10 With each such transaction reporting return, the retailer
11 shall remit the proper amount of tax due (or shall submit
12 satisfactory evidence that the sale is not taxable if that is
13 the case), to the Department or its agents, whereupon the
14 Department shall issue, in the purchaser's name, a use tax
15 receipt (or a certificate of exemption if the Department is
16 satisfied that the particular sale is tax exempt) which such
17 purchaser may submit to the agency with which, or State officer
18 with whom, he must title or register the tangible personal
19 property that is involved (if titling or registration is
20 required) in support of such purchaser's application for an
21 Illinois certificate or other evidence of title or registration
22 to such tangible personal property.

23 No retailer's failure or refusal to remit tax under this
24 Act precludes a user, who has paid the proper tax to the
25 retailer, from obtaining his certificate of title or other
26 evidence of title or registration (if titling or registration
27 is required) upon satisfying the Department that such user has
28 paid the proper tax (if tax is due) to the retailer. The
29 Department shall adopt appropriate rules to carry out the
30 mandate of this paragraph.

31 If the user who would otherwise pay tax to the retailer
32 wants the transaction reporting return filed and the payment of
33 the tax or proof of exemption made to the Department before the
34 retailer is willing to take these actions and such user has not
35 paid the tax to the retailer, such user may certify to the fact
36 of such delay by the retailer and may (upon the Department

1 being satisfied of the truth of such certification) transmit
2 the information required by the transaction reporting return
3 and the remittance for tax or proof of exemption directly to
4 the Department and obtain his tax receipt or exemption
5 determination, in which event the transaction reporting return
6 and tax remittance (if a tax payment was required) shall be
7 credited by the Department to the proper retailer's account
8 with the Department, but without the 2.1% or 1.75% discount
9 provided for in this Section being allowed. When the user pays
10 the tax directly to the Department, he shall pay the tax in the
11 same amount and in the same form in which it would be remitted
12 if the tax had been remitted to the Department by the retailer.

13 Refunds made by the seller during the preceding return
14 period to purchasers, on account of tangible personal property
15 returned to the seller, shall be allowed as a deduction under
16 subdivision 5 of his monthly or quarterly return, as the case
17 may be, in case the seller had theretofore included the
18 receipts from the sale of such tangible personal property in a
19 return filed by him and had paid the tax imposed by this Act
20 with respect to such receipts.

21 Where the seller is a corporation, the return filed on
22 behalf of such corporation shall be signed by the president,
23 vice-president, secretary or treasurer or by the properly
24 accredited agent of such corporation.

25 Where the seller is a limited liability company, the return
26 filed on behalf of the limited liability company shall be
27 signed by a manager, member, or properly accredited agent of
28 the limited liability company.

29 Except as provided in this Section, the retailer filing the
30 return under this Section shall, at the time of filing such
31 return, pay to the Department the amount of tax imposed by this
32 Act less a discount of 2.1% prior to January 1, 1990 and 1.75%
33 on and after January 1, 1990, or \$5 per calendar year,
34 whichever is greater, which is allowed to reimburse the
35 retailer for the expenses incurred in keeping records,
36 preparing and filing returns, remitting the tax and supplying

1 data to the Department on request. Any prepayment made pursuant
2 to Section 2d of this Act shall be included in the amount on
3 which such 2.1% or 1.75% discount is computed. In the case of
4 retailers who report and pay the tax on a transaction by
5 transaction basis, as provided in this Section, such discount
6 shall be taken with each such tax remittance instead of when
7 such retailer files his periodic return.

8 Before October 1, 2000, if the taxpayer's average monthly
9 tax liability to the Department under this Act, the Use Tax
10 Act, the Service Occupation Tax Act, and the Service Use Tax
11 Act, excluding any liability for prepaid sales tax to be
12 remitted in accordance with Section 2d of this Act, was \$10,000
13 or more during the preceding 4 complete calendar quarters, he
14 shall file a return with the Department each month by the 20th
15 day of the month next following the month during which such tax
16 liability is incurred and shall make payments to the Department
17 on or before the 7th, 15th, 22nd and last day of the month
18 during which such liability is incurred. On and after October
19 1, 2000, if the taxpayer's average monthly tax liability to the
20 Department under this Act, the Use Tax Act, the Service
21 Occupation Tax Act, and the Service Use Tax Act, excluding any
22 liability for prepaid sales tax to be remitted in accordance
23 with Section 2d of this Act, was \$20,000 or more during the
24 preceding 4 complete calendar quarters, he shall file a return
25 with the Department each month by the 20th day of the month
26 next following the month during which such tax liability is
27 incurred and shall make payment to the Department on or before
28 the 7th, 15th, 22nd and last day of the month during which such
29 liability is incurred. If the month during which such tax
30 liability is incurred began prior to January 1, 1985, each
31 payment shall be in an amount equal to 1/4 of the taxpayer's
32 actual liability for the month or an amount set by the
33 Department not to exceed 1/4 of the average monthly liability
34 of the taxpayer to the Department for the preceding 4 complete
35 calendar quarters (excluding the month of highest liability and
36 the month of lowest liability in such 4 quarter period). If the

1 month during which such tax liability is incurred begins on or
2 after January 1, 1985 and prior to January 1, 1987, each
3 payment shall be in an amount equal to 22.5% of the taxpayer's
4 actual liability for the month or 27.5% of the taxpayer's
5 liability for the same calendar month of the preceding year. If
6 the month during which such tax liability is incurred begins on
7 or after January 1, 1987 and prior to January 1, 1988, each
8 payment shall be in an amount equal to 22.5% of the taxpayer's
9 actual liability for the month or 26.25% of the taxpayer's
10 liability for the same calendar month of the preceding year. If
11 the month during which such tax liability is incurred begins on
12 or after January 1, 1988, and prior to January 1, 1989, or
13 begins on or after January 1, 1996, each payment shall be in an
14 amount equal to 22.5% of the taxpayer's actual liability for
15 the month or 25% of the taxpayer's liability for the same
16 calendar month of the preceding year. If the month during which
17 such tax liability is incurred begins on or after January 1,
18 1989, and prior to January 1, 1996, each payment shall be in an
19 amount equal to 22.5% of the taxpayer's actual liability for
20 the month or 25% of the taxpayer's liability for the same
21 calendar month of the preceding year or 100% of the taxpayer's
22 actual liability for the quarter monthly reporting period. The
23 amount of such quarter monthly payments shall be credited
24 against the final tax liability of the taxpayer's return for
25 that month. Before October 1, 2000, once applicable, the
26 requirement of the making of quarter monthly payments to the
27 Department by taxpayers having an average monthly tax liability
28 of \$10,000 or more as determined in the manner provided above
29 shall continue until such taxpayer's average monthly liability
30 to the Department during the preceding 4 complete calendar
31 quarters (excluding the month of highest liability and the
32 month of lowest liability) is less than \$9,000, or until such
33 taxpayer's average monthly liability to the Department as
34 computed for each calendar quarter of the 4 preceding complete
35 calendar quarter period is less than \$10,000. However, if a
36 taxpayer can show the Department that a substantial change in

1 the taxpayer's business has occurred which causes the taxpayer
2 to anticipate that his average monthly tax liability for the
3 reasonably foreseeable future will fall below the \$10,000
4 threshold stated above, then such taxpayer may petition the
5 Department for a change in such taxpayer's reporting status. On
6 and after October 1, 2000, once applicable, the requirement of
7 the making of quarter monthly payments to the Department by
8 taxpayers having an average monthly tax liability of \$20,000 or
9 more as determined in the manner provided above shall continue
10 until such taxpayer's average monthly liability to the
11 Department during the preceding 4 complete calendar quarters
12 (excluding the month of highest liability and the month of
13 lowest liability) is less than \$19,000 or until such taxpayer's
14 average monthly liability to the Department as computed for
15 each calendar quarter of the 4 preceding complete calendar
16 quarter period is less than \$20,000. However, if a taxpayer can
17 show the Department that a substantial change in the taxpayer's
18 business has occurred which causes the taxpayer to anticipate
19 that his average monthly tax liability for the reasonably
20 foreseeable future will fall below the \$20,000 threshold stated
21 above, then such taxpayer may petition the Department for a
22 change in such taxpayer's reporting status. The Department
23 shall change such taxpayer's reporting status unless it finds
24 that such change is seasonal in nature and not likely to be
25 long term. If any such quarter monthly payment is not paid at
26 the time or in the amount required by this Section, then the
27 taxpayer shall be liable for penalties and interest on the
28 difference between the minimum amount due as a payment and the
29 amount of such quarter monthly payment actually and timely
30 paid, except insofar as the taxpayer has previously made
31 payments for that month to the Department in excess of the
32 minimum payments previously due as provided in this Section.
33 The Department shall make reasonable rules and regulations to
34 govern the quarter monthly payment amount and quarter monthly
35 payment dates for taxpayers who file on other than a calendar
36 monthly basis.

1 The provisions of this paragraph apply before October 1,
2 2001. Without regard to whether a taxpayer is required to make
3 quarter monthly payments as specified above, any taxpayer who
4 is required by Section 2d of this Act to collect and remit
5 prepaid taxes and has collected prepaid taxes which average in
6 excess of \$25,000 per month during the preceding 2 complete
7 calendar quarters, shall file a return with the Department as
8 required by Section 2f and shall make payments to the
9 Department on or before the 7th, 15th, 22nd and last day of the
10 month during which such liability is incurred. If the month
11 during which such tax liability is incurred began prior to the
12 effective date of this amendatory Act of 1985, each payment
13 shall be in an amount not less than 22.5% of the taxpayer's
14 actual liability under Section 2d. If the month during which
15 such tax liability is incurred begins on or after January 1,
16 1986, each payment shall be in an amount equal to 22.5% of the
17 taxpayer's actual liability for the month or 27.5% of the
18 taxpayer's liability for the same calendar month of the
19 preceding calendar year. If the month during which such tax
20 liability is incurred begins on or after January 1, 1987, each
21 payment shall be in an amount equal to 22.5% of the taxpayer's
22 actual liability for the month or 26.25% of the taxpayer's
23 liability for the same calendar month of the preceding year.
24 The amount of such quarter monthly payments shall be credited
25 against the final tax liability of the taxpayer's return for
26 that month filed under this Section or Section 2f, as the case
27 may be. Once applicable, the requirement of the making of
28 quarter monthly payments to the Department pursuant to this
29 paragraph shall continue until such taxpayer's average monthly
30 prepaid tax collections during the preceding 2 complete
31 calendar quarters is \$25,000 or less. If any such quarter
32 monthly payment is not paid at the time or in the amount
33 required, the taxpayer shall be liable for penalties and
34 interest on such difference, except insofar as the taxpayer has
35 previously made payments for that month in excess of the
36 minimum payments previously due.

1 The provisions of this paragraph apply on and after October
2 1, 2001. Without regard to whether a taxpayer is required to
3 make quarter monthly payments as specified above, any taxpayer
4 who is required by Section 2d of this Act to collect and remit
5 prepaid taxes and has collected prepaid taxes that average in
6 excess of \$20,000 per month during the preceding 4 complete
7 calendar quarters shall file a return with the Department as
8 required by Section 2f and shall make payments to the
9 Department on or before the 7th, 15th, 22nd and last day of the
10 month during which the liability is incurred. Each payment
11 shall be in an amount equal to 22.5% of the taxpayer's actual
12 liability for the month or 25% of the taxpayer's liability for
13 the same calendar month of the preceding year. The amount of
14 the quarter monthly payments shall be credited against the
15 final tax liability of the taxpayer's return for that month
16 filed under this Section or Section 2f, as the case may be.
17 Once applicable, the requirement of the making of quarter
18 monthly payments to the Department pursuant to this paragraph
19 shall continue until the taxpayer's average monthly prepaid tax
20 collections during the preceding 4 complete calendar quarters
21 (excluding the month of highest liability and the month of
22 lowest liability) is less than \$19,000 or until such taxpayer's
23 average monthly liability to the Department as computed for
24 each calendar quarter of the 4 preceding complete calendar
25 quarters is less than \$20,000. If any such quarter monthly
26 payment is not paid at the time or in the amount required, the
27 taxpayer shall be liable for penalties and interest on such
28 difference, except insofar as the taxpayer has previously made
29 payments for that month in excess of the minimum payments
30 previously due.

31 If any payment provided for in this Section exceeds the
32 taxpayer's liabilities under this Act, the Use Tax Act, the
33 Service Occupation Tax Act and the Service Use Tax Act, as
34 shown on an original monthly return, the Department shall, if
35 requested by the taxpayer, issue to the taxpayer a credit
36 memorandum no later than 30 days after the date of payment. The

1 credit evidenced by such credit memorandum may be assigned by
2 the taxpayer to a similar taxpayer under this Act, the Use Tax
3 Act, the Service Occupation Tax Act or the Service Use Tax Act,
4 in accordance with reasonable rules and regulations to be
5 prescribed by the Department. If no such request is made, the
6 taxpayer may credit such excess payment against tax liability
7 subsequently to be remitted to the Department under this Act,
8 the Use Tax Act, the Service Occupation Tax Act or the Service
9 Use Tax Act, in accordance with reasonable rules and
10 regulations prescribed by the Department. If the Department
11 subsequently determined that all or any part of the credit
12 taken was not actually due to the taxpayer, the taxpayer's 2.1%
13 and 1.75% vendor's discount shall be reduced by 2.1% or 1.75%
14 of the difference between the credit taken and that actually
15 due, and that taxpayer shall be liable for penalties and
16 interest on such difference.

17 If a retailer of motor fuel is entitled to a credit under
18 Section 2d of this Act which exceeds the taxpayer's liability
19 to the Department under this Act for the month which the
20 taxpayer is filing a return, the Department shall issue the
21 taxpayer a credit memorandum for the excess.

22 Beginning January 1, 1990, each month the Department shall
23 pay into the Local Government Tax Fund, a special fund in the
24 State treasury which is hereby created, the net revenue
25 realized for the preceding month from the 1% tax on sales of
26 food for human consumption which is to be consumed off the
27 premises where it is sold (other than alcoholic beverages, soft
28 drinks and food which has been prepared for immediate
29 consumption) and prescription and nonprescription medicines,
30 drugs, medical appliances and insulin, urine testing
31 materials, syringes and needles used by diabetics.

32 Beginning January 1, 1990, each month the Department shall
33 pay into the County and Mass Transit District Fund, a special
34 fund in the State treasury which is hereby created, 4% of the
35 net revenue realized for the preceding month from the 6.25%
36 general rate.

1 Beginning August 1, 2000, each month the Department shall
 2 pay into the County and Mass Transit District Fund 20% of the
 3 net revenue realized for the preceding month from the 1.25%
 4 rate on the selling price of motor fuel and gasohol.

5 Beginning January 1, 1990, each month the Department shall
 6 pay into the Local Government Tax Fund 16% of the net revenue
 7 realized for the preceding month from the 6.25% general rate on
 8 the selling price of tangible personal property.

9 Beginning August 1, 2000, each month the Department shall
 10 pay into the Local Government Tax Fund 80% of the net revenue
 11 realized for the preceding month from the 1.25% rate on the
 12 selling price of motor fuel and gasohol.

13 Of the remainder of the moneys received by the Department
 14 pursuant to this Act, (a) 1.75% thereof shall be paid into the
 15 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
 16 and after July 1, 1989, 3.8% thereof shall be paid into the
 17 Build Illinois Fund; provided, however, that if in any fiscal
 18 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
 19 may be, of the moneys received by the Department and required
 20 to be paid into the Build Illinois Fund pursuant to this Act,
 21 Section 9 of the Use Tax Act, Section 9 of the Service Use Tax
 22 Act, and Section 9 of the Service Occupation Tax Act, such Acts
 23 being hereinafter called the "Tax Acts" and such aggregate of
 24 2.2% or 3.8%, as the case may be, of moneys being hereinafter
 25 called the "Tax Act Amount", and (2) the amount transferred to
 26 the Build Illinois Fund from the State and Local Sales Tax
 27 Reform Fund shall be less than the Annual Specified Amount (as
 28 hereinafter defined), an amount equal to the difference shall
 29 be immediately paid into the Build Illinois Fund from other
 30 moneys received by the Department pursuant to the Tax Acts; the
 31 "Annual Specified Amount" means the amounts specified below for
 32 fiscal years 1986 through 1993:

33 Fiscal Year	Annual Specified Amount
34 1986	\$54,800,000
35 1987	\$76,650,000
36 1988	\$80,480,000

1	1989	\$88,510,000
2	1990	\$115,330,000
3	1991	\$145,470,000
4	1992	\$182,730,000
5	1993	\$206,520,000;

6 and means the Certified Annual Debt Service Requirement (as
7 defined in Section 13 of the Build Illinois Bond Act) or the
8 Tax Act Amount, whichever is greater, for fiscal year 1994 and
9 each fiscal year thereafter; and further provided, that if on
10 the last business day of any month the sum of (1) the Tax Act
11 Amount required to be deposited into the Build Illinois Bond
12 Account in the Build Illinois Fund during such month and (2)
13 the amount transferred to the Build Illinois Fund from the
14 State and Local Sales Tax Reform Fund shall have been less than
15 1/12 of the Annual Specified Amount, an amount equal to the
16 difference shall be immediately paid into the Build Illinois
17 Fund from other moneys received by the Department pursuant to
18 the Tax Acts; and, further provided, that in no event shall the
19 payments required under the preceding proviso result in
20 aggregate payments into the Build Illinois Fund pursuant to
21 this clause (b) for any fiscal year in excess of the greater of
22 (i) the Tax Act Amount or (ii) the Annual Specified Amount for
23 such fiscal year. The amounts payable into the Build Illinois
24 Fund under clause (b) of the first sentence in this paragraph
25 shall be payable only until such time as the aggregate amount
26 on deposit under each trust indenture securing Bonds issued and
27 outstanding pursuant to the Build Illinois Bond Act is
28 sufficient, taking into account any future investment income,
29 to fully provide, in accordance with such indenture, for the
30 defeasance of or the payment of the principal of, premium, if
31 any, and interest on the Bonds secured by such indenture and on
32 any Bonds expected to be issued thereafter and all fees and
33 costs payable with respect thereto, all as certified by the
34 Director of the Bureau of the Budget (now Governor's Office of
35 Management and Budget). If on the last business day of any
36 month in which Bonds are outstanding pursuant to the Build

1 Illinois Bond Act, the aggregate of moneys deposited in the
 2 Build Illinois Bond Account in the Build Illinois Fund in such
 3 month shall be less than the amount required to be transferred
 4 in such month from the Build Illinois Bond Account to the Build
 5 Illinois Bond Retirement and Interest Fund pursuant to Section
 6 13 of the Build Illinois Bond Act, an amount equal to such
 7 deficiency shall be immediately paid from other moneys received
 8 by the Department pursuant to the Tax Acts to the Build
 9 Illinois Fund; provided, however, that any amounts paid to the
 10 Build Illinois Fund in any fiscal year pursuant to this
 11 sentence shall be deemed to constitute payments pursuant to
 12 clause (b) of the first sentence of this paragraph and shall
 13 reduce the amount otherwise payable for such fiscal year
 14 pursuant to that clause (b). The moneys received by the
 15 Department pursuant to this Act and required to be deposited
 16 into the Build Illinois Fund are subject to the pledge, claim
 17 and charge set forth in Section 12 of the Build Illinois Bond
 18 Act.

19 Subject to payment of amounts into the Build Illinois Fund
 20 as provided in the preceding paragraph or in any amendment
 21 thereto hereafter enacted, the following specified monthly
 22 installment of the amount requested in the certificate of the
 23 Chairman of the Metropolitan Pier and Exposition Authority
 24 provided under Section 8.25f of the State Finance Act, but not
 25 in excess of sums designated as "Total Deposit", shall be
 26 deposited in the aggregate from collections under Section 9 of
 27 the Use Tax Act, Section 9 of the Service Use Tax Act, Section
 28 9 of the Service Occupation Tax Act, and Section 3 of the
 29 Retailers' Occupation Tax Act into the McCormick Place
 30 Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
32 1993	\$0
33 1994	53,000,000
34 1995	58,000,000
35 1996	61,000,000

1	1997	64,000,000
2	1998	68,000,000
3	1999	71,000,000
4	2000	75,000,000
5	2001	80,000,000
6	2002	93,000,000
7	2003	99,000,000
8	2004	103,000,000
9	2005	108,000,000
10	2006	113,000,000
11	2007	119,000,000
12	2008	126,000,000
13	2009	132,000,000
14	2010	139,000,000
15	2011	146,000,000
16	2012	153,000,000
17	2013	161,000,000
18	2014	170,000,000
19	2015	179,000,000
20	2016	189,000,000
21	2017	199,000,000
22	2018	210,000,000
23	2019	221,000,000
24	2020	233,000,000
25	2021	246,000,000
26	2022	260,000,000
27	2023 and	275,000,000

28 each fiscal year
29 thereafter that bonds
30 are outstanding under
31 Section 13.2 of the
32 Metropolitan Pier and
33 Exposition Authority Act,
34 but not after fiscal year 2042.

35 Beginning July 20, 1993 and in each month of each fiscal
36 year thereafter, one-eighth of the amount requested in the

1 certificate of the Chairman of the Metropolitan Pier and
2 Exposition Authority for that fiscal year, less the amount
3 deposited into the McCormick Place Expansion Project Fund by
4 the State Treasurer in the respective month under subsection
5 (g) of Section 13 of the Metropolitan Pier and Exposition
6 Authority Act, plus cumulative deficiencies in the deposits
7 required under this Section for previous months and years,
8 shall be deposited into the McCormick Place Expansion Project
9 Fund, until the full amount requested for the fiscal year, but
10 not in excess of the amount specified above as "Total Deposit",
11 has been deposited.

12 Subject to payment of amounts into the Build Illinois Fund
13 and the McCormick Place Expansion Project Fund pursuant to the
14 preceding paragraphs or in any amendments thereto hereafter
15 enacted, beginning July 1, 1993, the Department shall each
16 month pay into the Illinois Tax Increment Fund 0.27% of 80% of
17 the net revenue realized for the preceding month from the 6.25%
18 general rate on the selling price of tangible personal
19 property.

20 Subject to payment of amounts into the Build Illinois Fund
21 and the McCormick Place Expansion Project Fund pursuant to the
22 preceding paragraphs or in any amendments thereto hereafter
23 enacted, beginning with the receipt of the first report of
24 taxes paid by an eligible business and continuing for a 25-year
25 period, the Department shall each month pay into the Energy
26 Infrastructure Fund 80% of the net revenue realized from the
27 6.25% general rate on the selling price of Illinois-mined coal
28 that was sold to an eligible business. For purposes of this
29 paragraph, the term "eligible business" means a new electric
30 generating facility certified pursuant to Section 605-332 of
31 the Department of Commerce and Economic Opportunity ~~Community~~
32 ~~Affairs~~ Law of the Civil Administrative Code of Illinois.

33 Of the remainder of the moneys received by the Department
34 pursuant to this Act, 75% thereof shall be paid into the State
35 Treasury and 25% shall be reserved in a special account and
36 used only for the transfer to the Common School Fund as part of

1 the monthly transfer from the General Revenue Fund in
2 accordance with Section 8a of the State Finance Act.

3 The Department may, upon separate written notice to a
4 taxpayer, require the taxpayer to prepare and file with the
5 Department on a form prescribed by the Department within not
6 less than 60 days after receipt of the notice an annual
7 information return for the tax year specified in the notice.
8 Such annual return to the Department shall include a statement
9 of gross receipts as shown by the retailer's last Federal
10 income tax return. If the total receipts of the business as
11 reported in the Federal income tax return do not agree with the
12 gross receipts reported to the Department of Revenue for the
13 same period, the retailer shall attach to his annual return a
14 schedule showing a reconciliation of the 2 amounts and the
15 reasons for the difference. The retailer's annual return to the
16 Department shall also disclose the cost of goods sold by the
17 retailer during the year covered by such return, opening and
18 closing inventories of such goods for such year, costs of goods
19 used from stock or taken from stock and given away by the
20 retailer during such year, payroll information of the
21 retailer's business during such year and any additional
22 reasonable information which the Department deems would be
23 helpful in determining the accuracy of the monthly, quarterly
24 or annual returns filed by such retailer as provided for in
25 this Section.

26 If the annual information return required by this Section
27 is not filed when and as required, the taxpayer shall be liable
28 as follows:

29 (i) Until January 1, 1994, the taxpayer shall be liable
30 for a penalty equal to 1/6 of 1% of the tax due from such
31 taxpayer under this Act during the period to be covered by
32 the annual return for each month or fraction of a month
33 until such return is filed as required, the penalty to be
34 assessed and collected in the same manner as any other
35 penalty provided for in this Act.

36 (ii) On and after January 1, 1994, the taxpayer shall

1 be liable for a penalty as described in Section 3-4 of the
2 Uniform Penalty and Interest Act.

3 The chief executive officer, proprietor, owner or highest
4 ranking manager shall sign the annual return to certify the
5 accuracy of the information contained therein. Any person who
6 willfully signs the annual return containing false or
7 inaccurate information shall be guilty of perjury and punished
8 accordingly. The annual return form prescribed by the
9 Department shall include a warning that the person signing the
10 return may be liable for perjury.

11 The provisions of this Section concerning the filing of an
12 annual information return do not apply to a retailer who is not
13 required to file an income tax return with the United States
14 Government.

15 As soon as possible after the first day of each month, upon
16 certification of the Department of Revenue, the Comptroller
17 shall order transferred and the Treasurer shall transfer from
18 the General Revenue Fund to the Motor Fuel Tax Fund an amount
19 equal to 1.7% of 80% of the net revenue realized under this Act
20 for the second preceding month. Beginning April 1, 2000, this
21 transfer is no longer required and shall not be made.

22 Net revenue realized for a month shall be the revenue
23 collected by the State pursuant to this Act, less the amount
24 paid out during that month as refunds to taxpayers for
25 overpayment of liability.

26 For greater simplicity of administration, manufacturers,
27 importers and wholesalers whose products are sold at retail in
28 Illinois by numerous retailers, and who wish to do so, may
29 assume the responsibility for accounting and paying to the
30 Department all tax accruing under this Act with respect to such
31 sales, if the retailers who are affected do not make written
32 objection to the Department to this arrangement.

33 Any person who promotes, organizes, provides retail
34 selling space for concessionaires or other types of sellers at
35 the Illinois State Fair, DuQuoin State Fair, county fairs,
36 local fairs, art shows, flea markets and similar exhibitions or

1 events, including any transient merchant as defined by Section
2 of the Transient Merchant Act of 1987, is required to file a
3 report with the Department providing the name of the merchant's
4 business, the name of the person or persons engaged in
5 merchant's business, the permanent address and Illinois
6 Retailers Occupation Tax Registration Number of the merchant,
7 the dates and location of the event and other reasonable
8 information that the Department may require. The report must be
9 filed not later than the 20th day of the month next following
10 the month during which the event with retail sales was held.
11 Any person who fails to file a report required by this Section
12 commits a business offense and is subject to a fine not to
13 exceed \$250.

14 Any person engaged in the business of selling tangible
15 personal property at retail as a concessionaire or other type
16 of seller at the Illinois State Fair, county fairs, art shows,
17 flea markets and similar exhibitions or events, or any
18 transient merchants, as defined by Section 2 of the Transient
19 Merchant Act of 1987, may be required to make a daily report of
20 the amount of such sales to the Department and to make a daily
21 payment of the full amount of tax due. The Department shall
22 impose this requirement when it finds that there is a
23 significant risk of loss of revenue to the State at such an
24 exhibition or event. Such a finding shall be based on evidence
25 that a substantial number of concessionaires or other sellers
26 who are not residents of Illinois will be engaging in the
27 business of selling tangible personal property at retail at the
28 exhibition or event, or other evidence of a significant risk of
29 loss of revenue to the State. The Department shall notify
30 concessionaires and other sellers affected by the imposition of
31 this requirement. In the absence of notification by the
32 Department, the concessionaires and other sellers shall file
33 their returns as otherwise required in this Section.

34 (Source: P.A. 92-12, eff. 7-1-01; 92-16, eff. 6-28-01; 92-208,
35 eff. 8-2-01; 92-484, eff. 8-23-01; 92-492, eff. 1-1-02; 92-600,
36 eff. 6-28-02; 92-651, eff. 7-11-02; 93-22, eff. 6-20-03; 93-24,

1 eff. 6-20-03; revised 10-15-03.)

2 ARTICLE 25

3 Section 25-5. The Illinois Income Tax Act is amended by
4 changing Sections 203, 205, 305, and 1501 as follows:

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

6 Sec. 203. Base income defined.

7 (a) Individuals.

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

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

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

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

26 (C) An amount equal to the amount received during
27 the taxable year as a recovery or refund of real
28 property taxes paid with respect to the taxpayer's
29 principal residence under the Revenue Act of 1939 and
30 for which a deduction was previously taken under
31 subparagraph (L) of this paragraph (2) prior to July 1,
32 1991, the retrospective application date of Article 4
33 of Public Act 87-17. In the case of multi-unit or

1 multi-use structures and farm dwellings, the taxes on
2 the taxpayer's principal residence shall be that
3 portion of the total taxes for the entire property
4 which is attributable to such principal residence;

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

9 (D-5) An amount, to the extent not included in
10 adjusted gross income, equal to the amount of money
11 withdrawn by the taxpayer in the taxable year from a
12 medical care savings account and the interest earned on
13 the account in the taxable year of a withdrawal
14 pursuant to subsection (b) of Section 20 of the Medical
15 Care Savings Account Act or subsection (b) of Section
16 20 of the Medical Care Savings Account Act of 2000;

17 (D-10) For taxable years ending after December 31,
18 1997, an amount equal to any eligible remediation costs
19 that the individual deducted in computing adjusted
20 gross income and for which the individual claims a
21 credit under subsection (l) of Section 201;

22 (D-15) For taxable years 2001 and thereafter, an
23 amount equal to the bonus depreciation deduction (30%
24 of the adjusted basis of the qualified property) taken
25 on the taxpayer's federal income tax return for the
26 taxable year under subsection (k) of Section 168 of the
27 Internal Revenue Code; ~~and~~

28 (D-16) If the taxpayer reports a capital gain or
29 loss on the taxpayer's federal income tax return for
30 the taxable year based on a sale or transfer of
31 property for which the taxpayer was required in any
32 taxable year to make an addition modification under
33 subparagraph (D-15), then an amount equal to the
34 aggregate amount of the deductions taken in all taxable
35 years under subparagraph (Z) with respect to that
36 property.†

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

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

23 This paragraph shall not apply to the following:

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

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

35 (a) the foreign person, during the same
36 taxable year, paid, accrued, or incurred, the

1 interest to a person that is not a related
2 member, and

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

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

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

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

33 (D-18) For taxable years ending on or after
34 December 31, 2004, an amount equal to the amount of
35 intangible expenses and costs otherwise allowed as a
36 deduction in computing base income, and that were paid,

1 accrued, or incurred, directly or indirectly, to a
2 foreign person who would be a member of the same
3 unitary business group but for the fact that the
4 foreign person's business activity outside the United
5 States is 80% or more of that person's total business
6 activity. The addition modification required by this
7 subparagraph shall be reduced to the extent that
8 dividends were included in base income of the unitary
9 group for the same taxable year and received by the
10 taxpayer or by a member of the taxpayer's unitary
11 business group (including amounts included in gross
12 income under Sections 951 through 964 of the Internal
13 Revenue Code and amounts included in gross income under
14 Section 78 of the Internal Revenue Code) with respect
15 to the stock of the same person to whom the intangible
16 expenses and costs were directly or indirectly paid,
17 incurred, or accrued. The preceding sentence does not
18 apply to the extent that the same dividends caused a
19 reduction to the addition modification required under
20 Section 203(a)(2)(D-17) of this Act. As used in this
21 subparagraph, the term "intangible expenses and costs"
22 includes (1) expenses, losses, and costs for, or
23 related to, the direct or indirect acquisition, use,
24 maintenance or management, ownership, sale, exchange,
25 or any other disposition of intangible property; (2)
26 losses incurred, directly or indirectly, from
27 factoring transactions or discounting transactions;
28 (3) royalty, patent, technical, and copyright fees;
29 (4) licensing fees; and (5) other similar expenses and
30 costs. For purposes of this subparagraph, "intangible
31 property" includes patents, patent applications, trade
32 names, trademarks, service marks, copyrights, mask
33 works, trade secrets, and similar types of intangible
34 assets.

35 This paragraph shall not apply to the following:

36 (i) any item of intangible expenses or costs

1 paid, accrued, or incurred, directly or
2 indirectly, from a transaction with a foreign
3 person who is subject in a foreign country or
4 state, other than a state which requires mandatory
5 unitary reporting, to a tax on or measured by net
6 income with respect to such item; or

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

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

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

23 (iii) any item of intangible expense or cost
24 paid, accrued, or incurred, directly or
25 indirectly, from a transaction with a foreign
26 person if the taxpayer establishes by clear and
27 convincing evidence, that the adjustments are
28 unreasonable; or if the taxpayer and the Director
29 agree in writing to the application or use of an
30 alternative method of apportionment under Section
31 304(f);

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

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

5 (D-20) ~~(D-15)~~ For taxable years beginning on or
6 after January 1, 2002, in the case of a distribution
7 from a qualified tuition program under Section 529 of
8 the Internal Revenue Code, other than (i) a
9 distribution from a College Savings Pool created under
10 Section 16.5 of the State Treasurer Act or (ii) a
11 distribution from the Illinois Prepaid Tuition Trust
12 Fund, an amount equal to the amount excluded from gross
13 income under Section 529(c)(3)(B);

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

16 (E) For taxable years ending before December 31,
17 2001, any amount included in such total in respect of
18 any compensation (including but not limited to any
19 compensation paid or accrued to a serviceman while a
20 prisoner of war or missing in action) paid to a
21 resident by reason of being on active duty in the Armed
22 Forces of the United States and in respect of any
23 compensation paid or accrued to a resident who as a
24 governmental employee was a prisoner of war or missing
25 in action, and in respect of any compensation paid to a
26 resident in 1971 or thereafter for annual training
27 performed pursuant to Sections 502 and 503, Title 32,
28 United States Code as a member of the Illinois National
29 Guard. For taxable years ending on or after December
30 31, 2001, any amount included in such total in respect
31 of any compensation (including but not limited to any
32 compensation paid or accrued to a serviceman while a
33 prisoner of war or missing in action) paid to a
34 resident by reason of being a member of any component
35 of the Armed Forces of the United States and in respect
36 of any compensation paid or accrued to a resident who

1 as a governmental employee was a prisoner of war or
2 missing in action, and in respect of any compensation
3 paid to a resident in 2001 or thereafter by reason of
4 being a member of the Illinois National Guard. The
5 provisions of this amendatory Act of the 92nd General
6 Assembly are exempt from the provisions of Section 250;

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

18 (G) The valuation limitation amount;

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

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

27 (J) An amount equal to those dividends included in
28 such total which were paid by a corporation which
29 conducts business operations in an Enterprise Zone or
30 zones created under the Illinois Enterprise Zone Act,
31 and conducts substantially all of its operations in an
32 Enterprise Zone or zones;

33 (K) An amount equal to those dividends included in
34 such total that were paid by a corporation that
35 conducts business operations in a federally designated
36 Foreign Trade Zone or Sub-Zone and that is designated a

1 High Impact Business located in Illinois; provided
2 that dividends eligible for the deduction provided in
3 subparagraph (J) of paragraph (2) of this subsection
4 shall not be eligible for the deduction provided under
5 this subparagraph (K);

6 (L) For taxable years ending after December 31,
7 1983, an amount equal to all social security benefits
8 and railroad retirement benefits included in such
9 total pursuant to Sections 72(r) and 86 of the Internal
10 Revenue Code;

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

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

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

36 (P) An amount equal to the amount of the deduction

1 used to compute the federal income tax credit for
2 restoration of substantial amounts held under claim of
3 right for the taxable year pursuant to Section 1341 of
4 the Internal Revenue Code of 1986;

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

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

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

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

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

33 (V) Beginning with tax years ending on or after
34 December 31, 1995 and ending with tax years ending on
35 or before December 31, 2004, an amount equal to the
36 amount paid by a taxpayer who is a self-employed

1 taxpayer, a partner of a partnership, or a shareholder
2 in a Subchapter S corporation for health insurance or
3 long-term care insurance for that taxpayer or that
4 taxpayer's spouse or dependents, to the extent that the
5 amount paid for that health insurance or long-term care
6 insurance may be deducted under Section 213 of the
7 Internal Revenue Code of 1986, has not been deducted on
8 the federal income tax return of the taxpayer, and does
9 not exceed the taxable income attributable to that
10 taxpayer's income, self-employment income, or
11 Subchapter S corporation income; except that no
12 deduction shall be allowed under this item (V) if the
13 taxpayer is eligible to participate in any health
14 insurance or long-term care insurance plan of an
15 employer of the taxpayer or the taxpayer's spouse. The
16 amount of the health insurance and long-term care
17 insurance subtracted under this item (V) shall be
18 determined by multiplying total health insurance and
19 long-term care insurance premiums paid by the taxpayer
20 times a number that represents the fractional
21 percentage of eligible medical expenses under Section
22 213 of the Internal Revenue Code of 1986 not actually
23 deducted on the taxpayer's federal income tax return;

24 (W) For taxable years beginning on or after January
25 1, 1998, all amounts included in the taxpayer's federal
26 gross income in the taxable year from amounts converted
27 from a regular IRA to a Roth IRA. This paragraph is
28 exempt from the provisions of Section 250;

29 (X) For taxable year 1999 and thereafter, an amount
30 equal to the amount of any (i) distributions, to the
31 extent includible in gross income for federal income
32 tax purposes, made to the taxpayer because of his or
33 her status as a victim of persecution for racial or
34 religious reasons by Nazi Germany or any other Axis
35 regime or as an heir of the victim and (ii) items of
36 income, to the extent includible in gross income for

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

26 (Y) For taxable years beginning on or after January
27 1, 2002, moneys contributed in the taxable year to a
28 College Savings Pool account under Section 16.5 of the
29 State Treasurer Act, except that amounts excluded from
30 gross income under Section 529(c)(3) (C)(i) of the
31 Internal Revenue Code shall not be considered moneys
32 contributed under this subparagraph (Y). This
33 subparagraph (Y) is exempt from the provisions of
34 Section 250;

35 (Z) For taxable years 2001 and thereafter, for the
36 taxable year in which the bonus depreciation deduction

1 (30% of the adjusted basis of the qualified property)
2 is taken on the taxpayer's federal income tax return
3 under subsection (k) of Section 168 of the Internal
4 Revenue Code and for each applicable taxable year
5 thereafter, an amount equal to "x", where:

6 (1) "y" equals the amount of the depreciation
7 deduction taken for the taxable year on the
8 taxpayer's federal income tax return on property
9 for which the bonus depreciation deduction (30% of
10 the adjusted basis of the qualified property) was
11 taken in any year under subsection (k) of Section
12 168 of the Internal Revenue Code, but not including
13 the bonus depreciation deduction; and

14 (2) "x" equals "y" multiplied by 30 and then
15 divided by 70 (or "y" multiplied by 0.429).

16 The aggregate amount deducted under this
17 subparagraph in all taxable years for any one piece of
18 property may not exceed the amount of the bonus
19 depreciation deduction (30% of the adjusted basis of
20 the qualified property) taken on that property on the
21 taxpayer's federal income tax return under subsection
22 (k) of Section 168 of the Internal Revenue Code; ~~and~~

23 (AA) If the taxpayer reports a capital gain or loss
24 on the taxpayer's federal income tax return for the
25 taxable year based on a sale or transfer of property
26 for which the taxpayer was required in any taxable year
27 to make an addition modification under subparagraph
28 (D-15), then an amount equal to that addition
29 modification.

30 The taxpayer is allowed to take the deduction under
31 this subparagraph only once with respect to any one
32 piece of property; ~~and~~

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

36 (CC) The amount of (i) any interest income (net of

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

16 (DD) An amount equal to the interest income taken
17 into account for the taxable year (net of the
18 deductions allocable thereto) with respect to
19 transactions with a foreign person who would be a
20 member of the taxpayer's unitary business group but for
21 the fact that the foreign person's business activity
22 outside the United States is 80% or more of that
23 person's total business activity, but not to exceed the
24 addition modification required to be made for the same
25 taxable year under Section 203(a)(2)(D-17) for
26 interest paid, accrued, or incurred, directly or
27 indirectly, to the same foreign person; and

28 (EE) An amount equal to the income from intangible
29 property taken into account for the taxable year (net
30 of the deductions allocable thereto) with respect to
31 transactions with a foreign person who would be a
32 member of the taxpayer's unitary business group but for
33 the fact that the foreign person's business activity
34 outside the United States is 80% or more of that
35 person's total business activity, but not to exceed the
36 addition modification required to be made for the same

1 taxable year under Section 203(a)(2)(D-18) for
2 intangible expenses and costs paid, accrued, or
3 incurred, directly or indirectly, to the same foreign
4 person.

5 (b) Corporations.

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

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

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

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

20 (C) In the case of a regulated investment company,
21 an amount equal to the excess of (i) the net long-term
22 capital gain for the taxable year, over (ii) the amount
23 of the capital gain dividends designated as such in
24 accordance with Section 852(b)(3)(C) of the Internal
25 Revenue Code and any amount designated under Section
26 852(b)(3)(D) of the Internal Revenue Code,
27 attributable to the taxable year (this amendatory Act
28 of 1995 (Public Act 89-89) is declarative of existing
29 law and is not a new enactment);

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

34 (E) For taxable years in which a net operating loss
35 carryback or carryforward from a taxable year ending

1 prior to December 31, 1986 is an element of taxable
2 income under paragraph (1) of subsection (e) or
3 subparagraph (E) of paragraph (2) of subsection (e),
4 the amount by which addition modifications other than
5 those provided by this subparagraph (E) exceeded
6 subtraction modifications in such earlier taxable
7 year, with the following limitations applied in the
8 order that they are listed:

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

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

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

29 (E-5) For taxable years ending after December 31,
30 1997, an amount equal to any eligible remediation costs
31 that the corporation deducted in computing adjusted
32 gross income and for which the corporation claims a
33 credit under subsection (l) of Section 201;

34 (E-10) For taxable years 2001 and thereafter, an
35 amount equal to the bonus depreciation deduction (30%
36 of the adjusted basis of the qualified property) taken

1 on the taxpayer's federal income tax return for the
2 taxable year under subsection (k) of Section 168 of the
3 Internal Revenue Code; and

4 (E-11) If the taxpayer reports a capital gain or
5 loss on the taxpayer's federal income tax return for
6 the taxable year based on a sale or transfer of
7 property for which the taxpayer was required in any
8 taxable year to make an addition modification under
9 subparagraph (E-10), then an amount equal to the
10 aggregate amount of the deductions taken in all taxable
11 years under subparagraph (T) with respect to that
12 property;

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

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

36 This paragraph shall not apply to the following:

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

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

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

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

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

29 (iv) an item of interest paid, accrued, or
30 incurred, directly or indirectly, to a foreign
31 person if the taxpayer establishes by clear and
32 convincing evidence that the adjustments are
33 unreasonable; or if the taxpayer and the Director
34 agree in writing to the application or use of an
35 alternative method of apportionment under Section
36 304(f).

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

10 (E-13) For taxable years ending on or after
11 December 31, 2004, an amount equal to the amount of
12 intangible expenses and costs otherwise allowed as a
13 deduction in computing base income, and that were paid,
14 accrued, or incurred, directly or indirectly, to a
15 foreign person who would be a member of the same
16 unitary business group but for the fact that the
17 foreign person's business activity outside the United
18 States is 80% or more of that person's total business
19 activity. The addition modification required by this
20 subparagraph shall be reduced to the extent that
21 dividends were included in base income of the unitary
22 group for the same taxable year and received by the
23 taxpayer or by a member of the taxpayer's unitary
24 business group (including amounts included in gross
25 income pursuant to Sections 951 through 964 of the
26 Internal Revenue Code and amounts included in gross
27 income under Section 78 of the Internal Revenue Code)
28 with respect to the stock of the same person to whom
29 the intangible expenses and costs were directly or
30 indirectly paid, incurred, or accrued. The preceding
31 sentence shall not apply to the extent that the same
32 dividends caused a reduction to the addition
33 modification required under Section 203(b)(2)(E-12) of
34 this Act. As used in this subparagraph, the term
35 "intangible expenses and costs" includes (1) expenses,
36 losses, and costs for, or related to, the direct or

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

12 This paragraph shall not apply to the following:

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

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

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

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

36 (iii) any item of intangible expense or

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

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

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

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

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

25 (H) In the case of a regulated investment company,
26 an amount equal to the amount of exempt interest
27 dividends as defined in subsection (b) (5) of Section
28 852 of the Internal Revenue Code, paid to shareholders
29 for the taxable year;

30 (I) With the exception of any amounts subtracted
31 under subparagraph (J), an amount equal to the sum of
32 all amounts disallowed as deductions by (i) Sections
33 171(a) (2), and 265(a) (2) and amounts disallowed as
34 interest expense by Section 291(a) (3) of the Internal
35 Revenue Code, as now or hereafter amended, and all
36 amounts of expenses allocable to interest and

1 disallowed as deductions by Section 265(a)(1) of the
2 Internal Revenue Code, as now or hereafter amended; and
3 (ii) for taxable years ending on or after August 13,
4 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
5 832(b)(5)(B)(i) of the Internal Revenue Code; the
6 provisions of this subparagraph are exempt from the
7 provisions of Section 250;

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

17 (K) An amount equal to those dividends included in
18 such total which were paid by a corporation which
19 conducts business operations in an Enterprise Zone or
20 zones created under the Illinois Enterprise Zone Act
21 and conducts substantially all of its operations in an
22 Enterprise Zone or zones;

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

32 (M) For any taxpayer that is a financial
33 organization within the meaning of Section 304(c) of
34 this Act, an amount included in such total as interest
35 income from a loan or loans made by such taxpayer to a
36 borrower, to the extent that such a loan is secured by

1 property which is eligible for the Enterprise Zone
2 Investment Credit. To determine the portion of a loan
3 or loans that is secured by property eligible for a
4 Section 201(f) investment credit to the borrower, the
5 entire principal amount of the loan or loans between
6 the taxpayer and the borrower should be divided into
7 the basis of the Section 201(f) investment credit
8 property which secures the loan or loans, using for
9 this purpose the original basis of such property on the
10 date that it was placed in service in the Enterprise
11 Zone. The subtraction modification available to
12 taxpayer in any year under this subsection shall be
13 that portion of the total interest paid by the borrower
14 with respect to such loan attributable to the eligible
15 property as calculated under the previous sentence;

16 (M-1) For any taxpayer that is a financial
17 organization within the meaning of Section 304(c) of
18 this Act, an amount included in such total as interest
19 income from a loan or loans made by such taxpayer to a
20 borrower, to the extent that such a loan is secured by
21 property which is eligible for the High Impact Business
22 Investment Credit. To determine the portion of a loan
23 or loans that is secured by property eligible for a
24 Section 201(h) investment credit to the borrower, the
25 entire principal amount of the loan or loans between
26 the taxpayer and the borrower should be divided into
27 the basis of the Section 201(h) investment credit
28 property which secures the loan or loans, using for
29 this purpose the original basis of such property on the
30 date that it was placed in service in a federally
31 designated Foreign Trade Zone or Sub-Zone located in
32 Illinois. No taxpayer that is eligible for the
33 deduction provided in subparagraph (M) of paragraph
34 (2) of this subsection shall be eligible for the
35 deduction provided under this subparagraph (M-1). The
36 subtraction modification available to taxpayers in any

1 year under this subsection shall be that portion of the
2 total interest paid by the borrower with respect to
3 such loan attributable to the eligible property as
4 calculated under the previous sentence;

5 (N) Two times any contribution made during the
6 taxable year to a designated zone organization to the
7 extent that the contribution (i) qualifies as a
8 charitable contribution under subsection (c) of
9 Section 170 of the Internal Revenue Code and (ii) must,
10 by its terms, be used for a project approved by the
11 Department of Commerce and Economic Opportunity
12 ~~Community Affairs~~ under Section 11 of the Illinois
13 Enterprise Zone Act;

14 (O) An amount equal to: (i) 85% for taxable years
15 ending on or before December 31, 1992, or, a percentage
16 equal to the percentage allowable under Section
17 243(a)(1) of the Internal Revenue Code of 1986 for
18 taxable years ending after December 31, 1992, of the
19 amount by which dividends included in taxable income
20 and received from a corporation that is not created or
21 organized under the laws of the United States or any
22 state or political subdivision thereof, including, for
23 taxable years ending on or after December 31, 1988,
24 dividends received or deemed received or paid or deemed
25 paid under Sections 951 through 964 of the Internal
26 Revenue Code, exceed the amount of the modification
27 provided under subparagraph (G) of paragraph (2) of
28 this subsection (b) which is related to such dividends;
29 plus (ii) 100% of the amount by which dividends,
30 included in taxable income and received, including,
31 for taxable years ending on or after December 31, 1988,
32 dividends received or deemed received or paid or deemed
33 paid under Sections 951 through 964 of the Internal
34 Revenue Code, from any such corporation specified in
35 clause (i) that would but for the provisions of Section
36 1504 (b) (3) of the Internal Revenue Code be treated as

1 a member of the affiliated group which includes the
2 dividend recipient, exceed the amount of the
3 modification provided under subparagraph (G) of
4 paragraph (2) of this subsection (b) which is related
5 to such dividends;

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

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

14 (R) In the case of an attorney-in-fact with respect
15 to whom an interinsurer or a reciprocal insurer has
16 made the election under Section 835 of the Internal
17 Revenue Code, 26 U.S.C. 835, an amount equal to the
18 excess, if any, of the amounts paid or incurred by that
19 interinsurer or reciprocal insurer in the taxable year
20 to the attorney-in-fact over the deduction allowed to
21 that interinsurer or reciprocal insurer with respect
22 to the attorney-in-fact under Section 835(b) of the
23 Internal Revenue Code for the taxable year;

24 (S) For taxable years ending on or after December
25 31, 1997, in the case of a Subchapter S corporation, an
26 amount equal to all amounts of income allocable to a
27 shareholder subject to the Personal Property Tax
28 Replacement Income Tax imposed by subsections (c) and
29 (d) of Section 201 of this Act, including amounts
30 allocable to organizations exempt from federal income
31 tax by reason of Section 501(a) of the Internal Revenue
32 Code. This subparagraph (S) is exempt from the
33 provisions of Section 250;

34 (T) For taxable years 2001 and thereafter, for the
35 taxable year in which the bonus depreciation deduction
36 (30% of the adjusted basis of the qualified property)

1 is taken on the taxpayer's federal income tax return
2 under subsection (k) of Section 168 of the Internal
3 Revenue Code and for each applicable taxable year
4 thereafter, an amount equal to "x", where:

5 (1) "y" equals the amount of the depreciation
6 deduction taken for the taxable year on the
7 taxpayer's federal income tax return on property
8 for which the bonus depreciation deduction (30% of
9 the adjusted basis of the qualified property) was
10 taken in any year under subsection (k) of Section
11 168 of the Internal Revenue Code, but not including
12 the bonus depreciation deduction; and

13 (2) "x" equals "y" multiplied by 30 and then
14 divided by 70 (or "y" multiplied by 0.429).

15 The aggregate amount deducted under this
16 subparagraph in all taxable years for any one piece of
17 property may not exceed the amount of the bonus
18 depreciation deduction (30% of the adjusted basis of
19 the qualified property) taken on that property on the
20 taxpayer's federal income tax return under subsection
21 (k) of Section 168 of the Internal Revenue Code; ~~and~~

22 (U) If the taxpayer reports a capital gain or loss
23 on the taxpayer's federal income tax return for the
24 taxable year based on a sale or transfer of property
25 for which the taxpayer was required in any taxable year
26 to make an addition modification under subparagraph
27 (E-10), then an amount equal to that addition
28 modification.

29 The taxpayer is allowed to take the deduction under
30 this subparagraph only once with respect to any one
31 piece of property; ~~and~~

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

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

12 (W) An amount equal to the interest income taken
13 into account for the taxable year (net of the
14 deductions allocable thereto) with respect to
15 transactions with a foreign person who would be a
16 member of the taxpayer's unitary business group but for
17 the fact that the foreign person's business activity
18 outside the United States is 80% or more of that
19 person's total business activity, but not to exceed the
20 addition modification required to be made for the same
21 taxable year under Section 203(b)(2)(E-12) for
22 interest paid, accrued, or incurred, directly or
23 indirectly, to the same foreign person; and

24 (X) An amount equal to the income from intangible
25 property taken into account for the taxable year (net
26 of the deductions allocable thereto) with respect to
27 transactions with a foreign person who would be a
28 member of the taxpayer's unitary business group but for
29 the fact that the foreign person's business activity
30 outside the United States is 80% or more of that
31 person's total business activity, but not to exceed the
32 addition modification required to be made for the same
33 taxable year under Section 203(b)(2)(E-13) for
34 intangible expenses and costs paid, accrued, or
35 incurred, directly or indirectly, to the same foreign
36 person.

1 (3) Special rule. For purposes of paragraph (2) (A),
2 "gross income" in the case of a life insurance company, for
3 tax years ending on and after December 31, 1994, shall mean
4 the gross investment income for the taxable year.

5 (c) Trusts and estates.

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

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

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

17 (B) In the case of (i) an estate, \$600; (ii) a
18 trust which, under its governing instrument, is
19 required to distribute all of its income currently,
20 \$300; and (iii) any other trust, \$100, but in each such
21 case, only to the extent such amount was deducted in
22 the computation of taxable income;

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

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

30 (E) For taxable years in which a net operating loss
31 carryback or carryforward from a taxable year ending
32 prior to December 31, 1986 is an element of taxable
33 income under paragraph (1) of subsection (e) or
34 subparagraph (E) of paragraph (2) of subsection (e),
35 the amount by which addition modifications other than

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

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

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

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

25 (F) For taxable years ending on or after January 1,
26 1989, an amount equal to the tax deducted pursuant to
27 Section 164 of the Internal Revenue Code if the trust
28 or estate is claiming the same tax for purposes of the
29 Illinois foreign tax credit under Section 601 of this
30 Act;

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

35 (G-5) For taxable years ending after December 31,
36 1997, an amount equal to any eligible remediation costs

1 that the trust or estate deducted in computing adjusted
2 gross income and for which the trust or estate claims a
3 credit under subsection (l) of Section 201;

4 (G-10) For taxable years 2001 and thereafter, an
5 amount equal to the bonus depreciation deduction (30%
6 of the adjusted basis of the qualified property) taken
7 on the taxpayer's federal income tax return for the
8 taxable year under subsection (k) of Section 168 of the
9 Internal Revenue Code; and

10 (G-11) If the taxpayer reports a capital gain or
11 loss on the taxpayer's federal income tax return for
12 the taxable year based on a sale or transfer of
13 property for which the taxpayer was required in any
14 taxable year to make an addition modification under
15 subparagraph (G-10), then an amount equal to the
16 aggregate amount of the deductions taken in all taxable
17 years under subparagraph (R) with respect to that
18 property;

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

22 (G-12) For taxable years ending on or after
23 December 31, 2004, an amount equal to the amount
24 otherwise allowed as a deduction in computing base
25 income for interest paid, accrued, or incurred,
26 directly or indirectly, to a foreign person who would
27 be a member of the same unitary business group but for
28 the fact that the foreign person's business activity
29 outside the United States is 80% or more of the foreign
30 person's total business activity. The addition
31 modification required by this subparagraph shall be
32 reduced to the extent that dividends were included in
33 base income of the unitary group for the same taxable
34 year and received by the taxpayer or by a member of the
35 taxpayer's unitary business group (including amounts
36 included in gross income pursuant to Sections 951

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

6 This paragraph shall not apply to the following:

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

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

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

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

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

35 (iv) an item of interest paid, accrued, or
36 incurred, directly or indirectly, to a foreign

1 person if the taxpayer establishes by clear and
2 convincing evidence that the adjustments are
3 unreasonable; or if the taxpayer and the Director
4 agree in writing to the application or use of an
5 alternative method of apportionment under Section
6 304(f).

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

16 (G-13) For taxable years ending on or after
17 December 31, 2004, an amount equal to the amount of
18 intangible expenses and costs otherwise allowed as a
19 deduction in computing base income, and that were paid,
20 accrued, or incurred, directly or indirectly, to a
21 foreign person who would be a member of the same
22 unitary business group but for the fact that the
23 foreign person's business activity outside the United
24 States is 80% or more of that person's total business
25 activity. The addition modification required by this
26 subparagraph shall be reduced to the extent that
27 dividends were included in base income of the unitary
28 group for the same taxable year and received by the
29 taxpayer or by a member of the taxpayer's unitary
30 business group (including amounts included in gross
31 income pursuant to Sections 951 through 964 of the
32 Internal Revenue Code and amounts included in gross
33 income under Section 78 of the Internal Revenue Code)
34 with respect to the stock of the same person to whom
35 the intangible expenses and costs were directly or
36 indirectly paid, incurred, or accrued. The preceding

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

18 This paragraph shall not apply to the following:

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

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

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

35 (b) the transaction giving rise to the
36 intangible expense or cost between the

1 taxpayer and the foreign person did not have as
2 a principal purpose the avoidance of Illinois
3 income tax, and is paid pursuant to a contract
4 or agreement that reflects arm's-length terms;
5 or

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

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

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

26 (H) An amount equal to all amounts included in such
27 total pursuant to the provisions of Sections 402(a),
28 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
29 Internal Revenue Code or included in such total as
30 distributions under the provisions of any retirement
31 or disability plan for employees of any governmental
32 agency or unit, or retirement payments to retired
33 partners, which payments are excluded in computing net
34 earnings from self employment by Section 1402 of the
35 Internal Revenue Code and regulations adopted pursuant
36 thereto;

1 (I) The valuation limitation amount;

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

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

16 (L) With the exception of any amounts subtracted
17 under subparagraph (K), an amount equal to the sum of
18 all amounts disallowed as deductions by (i) Sections
19 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
20 as now or hereafter amended, and all amounts of
21 expenses allocable to interest and disallowed as
22 deductions by Section 265(1) of the Internal Revenue
23 Code of 1954, as now or hereafter amended; and (ii) for
24 taxable years ending on or after August 13, 1999,
25 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
26 the Internal Revenue Code; the provisions of this
27 subparagraph are exempt from the provisions of Section
28 250;

29 (M) An amount equal to those dividends included in
30 such total which were paid by a corporation which
31 conducts business operations in an Enterprise Zone or
32 zones created under the Illinois Enterprise Zone Act
33 and conducts substantially all of its operations in an
34 Enterprise Zone or Zones;

35 (N) An amount equal to any contribution made to a
36 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

16 (Q) For taxable year 1999 and thereafter, an amount
17 equal to the amount of any (i) distributions, to the
18 extent includible in gross income for federal income
19 tax purposes, made to the taxpayer because of his or
20 her status as a victim of persecution for racial or
21 religious reasons by Nazi Germany or any other Axis
22 regime or as an heir of the victim and (ii) items of
23 income, to the extent includible in gross income for
24 federal income tax purposes, attributable to, derived
25 from or in any way related to assets stolen from,
26 hidden from, or otherwise lost to a victim of
27 persecution for racial or religious reasons by Nazi
28 Germany or any other Axis regime immediately prior to,
29 during, and immediately after World War II, including,
30 but not limited to, interest on the proceeds receivable
31 as insurance under policies issued to a victim of
32 persecution for racial or religious reasons by Nazi
33 Germany or any other Axis regime by European insurance
34 companies immediately prior to and during World War II;
35 provided, however, this subtraction from federal
36 adjusted gross income does not apply to assets acquired

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

13 (R) For taxable years 2001 and thereafter, for the
14 taxable year in which the bonus depreciation deduction
15 (30% of the adjusted basis of the qualified property)
16 is taken on the taxpayer's federal income tax return
17 under subsection (k) of Section 168 of the Internal
18 Revenue Code and for each applicable taxable year
19 thereafter, an amount equal to "x", where:

20 (1) "y" equals the amount of the depreciation
21 deduction taken for the taxable year on the
22 taxpayer's federal income tax return on property
23 for which the bonus depreciation deduction (30% of
24 the adjusted basis of the qualified property) was
25 taken in any year under subsection (k) of Section
26 168 of the Internal Revenue Code, but not including
27 the bonus depreciation deduction; and

28 (2) "x" equals "y" multiplied by 30 and then
29 divided by 70 (or "y" multiplied by 0.429).

30 The aggregate amount deducted under this
31 subparagraph in all taxable years for any one piece of
32 property may not exceed the amount of the bonus
33 depreciation deduction (30% of the adjusted basis of
34 the qualified property) taken on that property on the
35 taxpayer's federal income tax return under subsection
36 (k) of Section 168 of the Internal Revenue Code; ~~and~~

1 (S) If the taxpayer reports a capital gain or loss
2 on the taxpayer's federal income tax return for the
3 taxable year based on a sale or transfer of property
4 for which the taxpayer was required in any taxable year
5 to make an addition modification under subparagraph
6 (G-10), then an amount equal to that addition
7 modification.

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

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

27 (U) An amount equal to the interest income taken
28 into account for the taxable year (net of the
29 deductions allocable thereto) with respect to
30 transactions with a foreign person who would be a
31 member of the taxpayer's unitary business group but for
32 the fact the foreign person's business activity
33 outside the United States is 80% or more of that
34 person's total business activity, but not to exceed the
35 addition modification required to be made for the same
36 taxable year under Section 203(c)(2)(G-12) for

1 interest paid, accrued, or incurred, directly or
2 indirectly, to the same foreign person; and

3 (V) An amount equal to the income from intangible
4 property taken into account for the taxable year (net
5 of the deductions allocable thereto) with respect to
6 transactions with a foreign person who would be a
7 member of the taxpayer's unitary business group but for
8 the fact that the foreign person's business activity
9 outside the United States is 80% or more of that
10 person's total business activity, but not to exceed the
11 addition modification required to be made for the same
12 taxable year under Section 203(c)(2)(G-13) for
13 intangible expenses and costs paid, accrued, or
14 incurred, directly or indirectly, to the same foreign
15 person.

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

23 (d) Partnerships.

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

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

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

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

1 the taxable year;

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

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

9 (D-5) For taxable years 2001 and thereafter, an
10 amount equal to the bonus depreciation deduction (30%
11 of the adjusted basis of the qualified property) taken
12 on the taxpayer's federal income tax return for the
13 taxable year under subsection (k) of Section 168 of the
14 Internal Revenue Code; ~~and~~

15 (D-6) If the taxpayer reports a capital gain or
16 loss on the taxpayer's federal income tax return for
17 the taxable year based on a sale or transfer of
18 property for which the taxpayer was required in any
19 taxable year to make an addition modification under
20 subparagraph (D-5), then an amount equal to the
21 aggregate amount of the deductions taken in all taxable
22 years under subparagraph (O) with respect to that
23 property;

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

27 (D-7) For taxable years ending on or after December
28 31, 2004, an amount equal to the amount otherwise
29 allowed as a deduction in computing base income for
30 interest paid, accrued, or incurred, directly or
31 indirectly, to a foreign person who would be a member
32 of the same unitary business group but for the fact the
33 foreign person's business activity outside the United
34 States is 80% or more of the foreign person's total
35 business activity. The addition modification required
36 by this subparagraph shall be reduced to the extent

1 that dividends were included in base income of the
2 unitary group for the same taxable year and received by
3 the taxpayer or by a member of the taxpayer's unitary
4 business group (including amounts included in gross
5 income pursuant to Sections 951 through 964 of the
6 Internal Revenue Code and amounts included in gross
7 income under Section 78 of the Internal Revenue Code)
8 with respect to the stock of the same person to whom
9 the interest was paid, accrued, or incurred.

10 This paragraph shall not apply to the following:

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

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

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

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

33 (iii) the taxpayer can establish, based on
34 clear and convincing evidence, that the interest
35 paid, accrued, or incurred relates to a contract or
36 agreement entered into at arm's-length rates and

1 terms and the principal purpose for the payment is
2 not federal or Illinois tax avoidance; or

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

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

20 (D-8) For taxable years ending on or after December
21 31, 2004, an amount equal to the amount of intangible
22 expenses and costs otherwise allowed as a deduction in
23 computing base income, and that were paid, accrued, or
24 incurred, directly or indirectly, to a foreign person
25 who would be a member of the same unitary business
26 group but for the fact that the foreign person's
27 business activity outside the United States is 80% or
28 more of that person's total business activity. The
29 addition modification required by this subparagraph
30 shall be reduced to the extent that dividends were
31 included in base income of the unitary group for the
32 same taxable year and received by the taxpayer or by a
33 member of the taxpayer's unitary business group
34 (including amounts included in gross income pursuant
35 to Sections 951 through 964 of the Internal Revenue
36 Code and amounts included in gross income under Section

1 78 of the Internal Revenue Code) with respect to the
2 stock of the same person to whom the intangible
3 expenses and costs were directly or indirectly paid,
4 incurred or accrued. The preceding sentence shall not
5 apply to the extent that the same dividends caused a
6 reduction to the addition modification required under
7 Section 203(d)(2)(D-7) of this Act. As used in this
8 subparagraph, the term "intangible expenses and costs"
9 includes (1) expenses, losses, and costs for, or
10 related to, the direct or indirect acquisition, use,
11 maintenance or management, ownership, sale, exchange,
12 or any other disposition of intangible property; (2)
13 losses incurred, directly or indirectly, from
14 factoring transactions or discounting transactions;
15 (3) royalty, patent, technical, and copyright fees;
16 (4) licensing fees; and (5) other similar expenses and
17 costs. For purposes of this subparagraph, "intangible
18 property" includes patents, patent applications, trade
19 names, trademarks, service marks, copyrights, mask
20 works, trade secrets, and similar types of intangible
21 assets;

22 This paragraph shall not apply to the following:

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

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

35 (a) the foreign person during the same taxable
36 year paid, accrued, or incurred, the

1 intangible expense or cost to a person that is
2 not a related member, and

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

9 or

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

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

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

30 (E) The valuation limitation amount;

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

34 (G) An amount equal to all amounts included in
35 taxable income as modified by subparagraphs (A), (B),
36 (C) and (D) which are exempt from taxation by this

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

8 (H) Any income of the partnership which
9 constitutes personal service income as defined in
10 Section 1348 (b) (1) of the Internal Revenue Code (as
11 in effect December 31, 1981) or a reasonable allowance
12 for compensation paid or accrued for services rendered
13 by partners to the partnership, whichever is greater;

14 (I) An amount equal to all amounts of income
15 distributable to an entity subject to the Personal
16 Property Tax Replacement Income Tax imposed by
17 subsections (c) and (d) of Section 201 of this Act
18 including amounts distributable to organizations
19 exempt from federal income tax by reason of Section
20 501(a) of the Internal Revenue Code;

21 (J) With the exception of any amounts subtracted
22 under subparagraph (G), an amount equal to the sum of
23 all amounts disallowed as deductions by (i) Sections
24 171(a) (2), and 265(2) of the Internal Revenue Code of
25 1954, as now or hereafter amended, and all amounts of
26 expenses allocable to interest and disallowed as
27 deductions by Section 265(1) of the Internal Revenue
28 Code, as now or hereafter amended; and (ii) for taxable
29 years ending on or after August 13, 1999, Sections
30 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
31 Internal Revenue Code; the provisions of this
32 subparagraph are exempt from the provisions of Section
33 250;

34 (K) An amount equal to those dividends included in
35 such total which were paid by a corporation which
36 conducts business operations in an Enterprise Zone or

1 zones created under the Illinois Enterprise Zone Act,
2 enacted by the 82nd General Assembly, and conducts
3 substantially all of its operations in an Enterprise
4 Zone or Zones;

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

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

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

22 (O) For taxable years 2001 and thereafter, for the
23 taxable year in which the bonus depreciation deduction
24 (30% of the adjusted basis of the qualified property)
25 is taken on the taxpayer's federal income tax return
26 under subsection (k) of Section 168 of the Internal
27 Revenue Code and for each applicable taxable year
28 thereafter, an amount equal to "x", where:

29 (1) "y" equals the amount of the depreciation
30 deduction taken for the taxable year on the
31 taxpayer's federal income tax return on property
32 for which the bonus depreciation deduction (30% of
33 the adjusted basis of the qualified property) was
34 taken in any year under subsection (k) of Section
35 168 of the Internal Revenue Code, but not including
36 the bonus depreciation deduction; and

1 (2) "x" equals "y" multiplied by 30 and then
2 divided by 70 (or "y" multiplied by 0.429).

3 The aggregate amount deducted under this
4 subparagraph in all taxable years for any one piece of
5 property may not exceed the amount of the bonus
6 depreciation deduction (30% of the adjusted basis of
7 the qualified property) taken on that property on the
8 taxpayer's federal income tax return under subsection
9 (k) of Section 168 of the Internal Revenue Code; ~~and~~

10 (P) If the taxpayer reports a capital gain or loss
11 on the taxpayer's federal income tax return for the
12 taxable year based on a sale or transfer of property
13 for which the taxpayer was required in any taxable year
14 to make an addition modification under subparagraph
15 (D-5), then an amount equal to that addition
16 modification.

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

20 (Q) The amount of (i) any interest income (net of
21 the deductions allocable thereto) taken into account
22 for the taxable year with respect to a transaction with
23 a taxpayer that is required to make an addition
24 modification with respect to such transaction under
25 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
26 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
27 the amount of such addition modification and (ii) any
28 income from intangible property (net of the deductions
29 allocable thereto) taken into account for the taxable
30 year with respect to a transaction with a taxpayer that
31 is required to make an addition modification with
32 respect to such transaction under Section
33 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
34 203(d)(2)(D-8), but not to exceed the amount of such
35 addition modification;

36 (R) An amount equal to the interest income taken

1 into account for the taxable year (net of the
2 deductions allocable thereto) with respect to
3 transactions with a foreign person who would be a
4 member of the taxpayer's unitary business group but for
5 the fact that the foreign person's business activity
6 outside the United States is 80% or more of that
7 person's total business activity, but not to exceed the
8 addition modification required to be made for the same
9 taxable year under Section 203(d) (2) (D-7) for interest
10 paid, accrued, or incurred, directly or indirectly, to
11 the same foreign person; and

12 (S) An amount equal to the income from intangible
13 property taken into account for the taxable year (net
14 of the deductions allocable thereto) with respect to
15 transactions with a foreign person who would be a
16 member of the taxpayer's unitary business group but for
17 the fact that the foreign person's business activity
18 outside the United States is 80% or more of that
19 person's total business activity, but not to exceed the
20 addition modification required to be made for the same
21 taxable year under Section 203(d) (2) (D-8) for
22 intangible expenses and costs paid, accrued, or
23 incurred, directly or indirectly, to the same foreign
24 person.

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

26 (1) In general. Subject to the provisions of paragraph
27 (2) and subsection (b) (3), for purposes of this Section
28 and Section 803(e), a taxpayer's gross income, adjusted
29 gross income, or taxable income for the taxable year shall
30 mean the amount of gross income, adjusted gross income or
31 taxable income properly reportable for federal income tax
32 purposes for the taxable year under the provisions of the
33 Internal Revenue Code. Taxable income may be less than
34 zero. However, for taxable years ending on or after
35 December 31, 1986, net operating loss carryforwards from

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

23 (2) Special rule. For purposes of paragraph (1) of this
24 subsection, the taxable income properly reportable for
25 federal income tax purposes shall mean:

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

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

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

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

9 (E) Consolidated corporations. In the case of a
10 corporation which is a member of an affiliated group of
11 corporations filing a consolidated income tax return
12 for the taxable year for federal income tax purposes,
13 taxable income determined as if such corporation had
14 filed a separate return for federal income tax purposes
15 for the taxable year and each preceding taxable year
16 for which it was a member of an affiliated group. For
17 purposes of this subparagraph, the taxpayer's separate
18 taxable income shall be determined as if the election
19 provided by Section 243(b) (2) of the Internal Revenue
20 Code had been in effect for all such years;

21 (F) Cooperatives. In the case of a cooperative
22 corporation or association, the taxable income of such
23 organization determined in accordance with the
24 provisions of Section 1381 through 1388 of the Internal
25 Revenue Code;

26 (G) Subchapter S corporations. In the case of: (i)
27 a Subchapter S corporation for which there is in effect
28 an election for the taxable year under Section 1362 of
29 the Internal Revenue Code, the taxable income of such
30 corporation determined in accordance with Section
31 1363(b) of the Internal Revenue Code, except that
32 taxable income shall take into account those items
33 which are required by Section 1363(b)(1) of the
34 Internal Revenue Code to be separately stated; and (ii)
35 a Subchapter S corporation for which there is in effect
36 a federal election to opt out of the provisions of the

1 Subchapter S Revision Act of 1982 and have applied
2 instead the prior federal Subchapter S rules as in
3 effect on July 1, 1982, the taxable income of such
4 corporation determined in accordance with the federal
5 Subchapter S rules as in effect on July 1, 1982; and

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

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

30 (f) Valuation limitation amount.

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

34 (A) The sum of the pre-August 1, 1969 appreciation
35 amounts (to the extent consisting of gain reportable
36 under the provisions of Section 1245 or 1250 of the

1 Internal Revenue Code) for all property in respect of
2 which such gain was reported for the taxable year; plus

3 (B) The lesser of (i) the sum of the pre-August 1,
4 1969 appreciation amounts (to the extent consisting of
5 capital gain) for all property in respect of which such
6 gain was reported for federal income tax purposes for
7 the taxable year, or (ii) the net capital gain for the
8 taxable year, reduced in either case by any amount of
9 such gain included in the amount determined under
10 subsection (a) (2) (F) or (c) (2) (H).

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

12 (A) If the fair market value of property referred
13 to in paragraph (1) was readily ascertainable on August
14 1, 1969, the pre-August 1, 1969 appreciation amount for
15 such property is the lesser of (i) the excess of such
16 fair market value over the taxpayer's basis (for
17 determining gain) for such property on that date
18 (determined under the Internal Revenue Code as in
19 effect on that date), or (ii) the total gain realized
20 and reportable for federal income tax purposes in
21 respect of the sale, exchange or other disposition of
22 such property.

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

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

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

4 (h) Legislative intention. Except as expressly provided by
5 this Section there shall be no modifications or limitations on
6 the amounts of income, gain, loss or deduction taken into
7 account in determining gross income, adjusted gross income or
8 taxable income for federal income tax purposes for the taxable
9 year, or in the amount of such items entering into the
10 computation of base income and net income under this Act for
11 such taxable year, whether in respect of property values as of
12 August 1, 1969 or otherwise.

13 (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99;
14 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff.
15 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16,
16 eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01;
17 92-603, eff. 6-28-02; 92-626, eff. 7-11-02; 92-651, eff.
18 7-11-02; 92-846, eff. 8-23-02; revised 10-15-03.)

19 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

20 Sec. 205. Exempt organizations.

21 (a) Charitable, etc. organizations. The base income of an
22 organization which is exempt from the federal income tax by
23 reason of Section 501(a) of the Internal Revenue Code shall not
24 be determined under section 203 of this Act, but shall be its
25 unrelated business taxable income as determined under section
26 512 of the Internal Revenue Code, without any deduction for the
27 tax imposed by this Act. The standard exemption provided by
28 section 204 of this Act shall not be allowed in determining the
29 net income of an organization to which this subsection applies.

30 (b) Partnerships. A partnership as such shall not be
31 subject to the tax imposed by subsection 201 (a) and (b) of
32 this Act, but shall be subject to the replacement tax imposed
33 by subsection 201 (c) and (d) of this Act and shall compute its

1 base income as described in subsection (d) of Section 203 of
2 this Act. For taxable years ending on or after December 31,
3 2004, an investment partnership, as defined in Section
4 1501(a)(11.5) of this Act, shall not be subject to the tax
5 imposed by subsections (c) and (d) of Section 201 of this Act.

6 A partnership shall file such returns and other information at
7 such time and in such manner as may be required under Article 5
8 of this Act. The partners in a partnership shall be liable for
9 the replacement tax imposed by subsection 201 (c) and (d) of
10 this Act on such partnership, to the extent such tax is not
11 paid by the partnership, as provided under the laws of Illinois
12 governing the liability of partners for the obligations of a
13 partnership. Persons carrying on business as partners shall be
14 liable for the tax imposed by subsection 201 (a) and (b) of
15 this Act only in their separate or individual capacities.

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

22 (d) Combat zone death. An individual relieved from the
23 federal income tax for any taxable year by reason of section
24 692 of the Internal Revenue Code shall not be subject to the
25 tax imposed by this Act for such taxable year.

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

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

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

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

6 (Source: P.A. 88-361.)

7 (35 ILCS 5/305) (from Ch. 120, par. 3-305)

8 Sec. 305. Allocation of Partnership Income by partnerships
9 and partners other than residents. (a) Allocation of
10 partnership business income by partners other than residents.
11 The respective shares of partners other than residents in so
12 much of the business income of the partnership as is allocated
13 or apportioned to this State in the possession of the
14 partnership shall be taken into account by such partners pro
15 rata in accordance with their respective distributive shares of
16 such partnership income for the partnership's taxable year and
17 allocated to this State.

18 (b) Allocation of partnership nonbusiness income by
19 partners other than residents. The respective shares of
20 partners other than residents in the items of partnership
21 income and deduction not taken into account in computing the
22 business income of a partnership shall be taken into account by
23 such partners pro rata in accordance with their respective
24 distributive shares of such partnership income for the
25 partnership's taxable year, and allocated as if such items had
26 been paid, incurred or accrued directly to such partners in
27 their separate capacities.

28 (c) Allocation or apportionment of base income by
29 partnership. Base income of a partnership shall be allocated or
30 apportioned to this State pursuant to Article 3, in the same
31 manner as it is allocated or apportioned for any other
32 nonresident.

33 (c-5) Taxable income of an investment partnership, as
34 defined in Section 1501(a)(11.5) of this Act, that is
35 distributable to a nonresident partner shall be treated as

1 nonbusiness income and shall be allocated to the partner's
2 state of residence (in the case of an individual) or commercial
3 domicile (in the case of any other person). However, any income
4 distributable to a nonresident partner shall be treated as
5 business income and apportioned as if such income had been
6 received directly by the partner if the partner has made an
7 election under Section 1501(a)(1) of this Act to treat all
8 income as business income or if such income is from investment
9 activity:

10 (1) that is directly or integrally related to any other
11 business activity conducted in this State by the
12 nonresident partner (or any member of that partner's
13 unitary business group);

14 (2) that serves an operational function to any other
15 business activity of the nonresident partner (or any member
16 of that partner's unitary business group) in this State; or

17 (3) where assets of the investment partnership were
18 acquired with working capital from a trade or business
19 activity conducted in this State in which the nonresident
20 partner (or any member of that partner's unitary business
21 group) owns an interest.

22 (d) Cross reference. For allocation of partnership income
23 or deductions by residents, see Section 301(a).

24 (Source: P.A. 84-550.)

25 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

26 Sec. 1501. Definitions.

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

30 (1) Business income. The term "business income" means
31 all income that may be treated as apportionable business
32 income under the Constitution of the United States.
33 Business income is net of the deductions allocable thereto
34 income arising from transactions and activity in the
35 regular course of the taxpayer's trade or business, net of

1 ~~the deductions allocable thereto, and includes income from~~
2 ~~tangible and intangible property if the acquisition,~~
3 ~~management, and disposition of the property constitute~~
4 ~~integral parts of the taxpayer's regular trade or business~~
5 ~~operations.~~ Such term does not include compensation or the
6 deductions allocable thereto. For each taxable year
7 beginning on or after January 1, 2003, a taxpayer may elect
8 to treat all income other than compensation as business
9 income. This election shall be made in accordance with
10 rules adopted by the Department and, once made, shall be
11 irrevocable.

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

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

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

24 (5) Department. The term "Department" means the
25 Department of Revenue of this State.

26 (6) Director. The term "Director" means the Director of
27 Revenue of this State.

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

31 (8) Financial organization.

32 (A) The term "financial organization" means any
33 bank, bank holding company, trust company, savings
34 bank, industrial bank, land bank, safe deposit
35 company, private banker, savings and loan association,
36 building and loan association, credit union, currency

1 exchange, cooperative bank, small loan company, sales
2 finance company, investment company, or any person
3 which is owned by a bank or bank holding company. For
4 the purpose of this Section a "person" will include
5 only those persons which a bank holding company may
6 acquire and hold an interest in, directly or
7 indirectly, under the provisions of the Bank Holding
8 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
9 where interests in any person must be disposed of
10 within certain required time limits under the Bank
11 Holding Company Act of 1956.

12 (B) For purposes of subparagraph (A) of this
13 paragraph, the term "bank" includes (i) any entity that
14 is regulated by the Comptroller of the Currency under
15 the National Bank Act, or by the Federal Reserve Board,
16 or by the Federal Deposit Insurance Corporation and
17 (ii) any federally or State chartered bank operating as
18 a credit card bank.

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

22 (i) A person primarily engaged in one or more
23 of the following businesses: the business of
24 purchasing customer receivables, the business of
25 making loans upon the security of customer
26 receivables, the business of making loans for the
27 express purpose of funding purchases of tangible
28 personal property or services by the borrower, or
29 the business of finance leasing. For purposes of
30 this item (i), "customer receivable" means:

31 (a) a retail installment contract or
32 retail charge agreement within the meaning of
33 the Sales Finance Agency Act, the Retail
34 Installment Sales Act, or the Motor Vehicle
35 Retail Installment Sales Act;

36 (b) an installment, charge, credit, or

1 similar contract or agreement arising from the
2 sale of tangible personal property or services
3 in a transaction involving a deferred payment
4 price payable in one or more installments
5 subsequent to the sale; or

6 (c) the outstanding balance of a contract
7 or agreement described in provisions (a) or (b)
8 of this item (i).

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

17 (ii) A corporation meeting each of the
18 following criteria:

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

24 (b) more than 50% of the gross income of
25 the corporation for the taxable year must be
26 interest income derived from qualifying loans.
27 A "qualifying loan" is a loan made to a member
28 of the corporation's affiliated group that
29 originates customer receivables (within the
30 meaning of item (i)) or to whom customer
31 receivables originated by a member of the
32 affiliated group have been transferred, to the
33 extent the average outstanding balance of
34 loans from that corporation to members of its
35 affiliated group during the taxable year do not
36 exceed the limitation amount for that

1 corporation. The "limitation amount" for a
2 corporation is the average outstanding
3 balances during the taxable year of customer
4 receivables (within the meaning of item (i))
5 originated by all members of the affiliated
6 group. If the average outstanding balances of
7 the loans made by a corporation to members of
8 its affiliated group exceed the limitation
9 amount, the interest income of that
10 corporation from qualifying loans shall be
11 equal to its interest income from loans to
12 members of its affiliated groups times a
13 fraction equal to the limitation amount
14 divided by the average outstanding balances of
15 the loans made by that corporation to members
16 of its affiliated group;

17 (c) the total of all shareholder's equity
18 (including, without limitation, paid-in
19 capital on common and preferred stock and
20 retained earnings) of the corporation plus the
21 total of all of its loans, advances, and other
22 obligations payable or owed to members of its
23 affiliated group may not exceed 20% of the
24 total assets of the corporation at any time
25 during the tax year; and

26 (d) more than 50% of all interest-bearing
27 obligations of the affiliated group payable to
28 persons outside the group determined in
29 accordance with generally accepted accounting
30 principles must be obligations of the
31 corporation.

32 This amendatory Act of the 91st General Assembly is
33 declaratory of existing law.

34 (D) Subparagraphs (B) and (C) of this paragraph are
35 declaratory of existing law and apply retroactively,
36 for all tax years beginning on or before December 31,

1 1996, to all original returns, to all amended returns
2 filed no later than 30 days after the effective date of
3 this amendatory Act of 1996, and to all notices issued
4 on or before the effective date of this amendatory Act
5 of 1996 under subsection (a) of Section 903, subsection
6 (a) of Section 904, subsection (e) of Section 909, or
7 Section 912. A taxpayer that is a "financial
8 organization" that engages in any transaction with an
9 affiliate shall be a "financial organization" for all
10 purposes of this Act.

11 (E) For all tax years beginning on or before
12 December 31, 1996, a taxpayer that falls within the
13 definition of a "financial organization" under
14 subparagraphs (B) or (C) of this paragraph, but who
15 does not fall within the definition of a "financial
16 organization" under the Proposed Regulations issued by
17 the Department of Revenue on July 19, 1996, may
18 irrevocably elect to apply the Proposed Regulations
19 for all of those years as though the Proposed
20 Regulations had been lawfully promulgated, adopted,
21 and in effect for all of those years. For purposes of
22 applying subparagraphs (B) or (C) of this paragraph to
23 all of those years, the election allowed by this
24 subparagraph applies only to the taxpayer making the
25 election and to those members of the taxpayer's unitary
26 business group who are ordinarily required to
27 apportion business income under the same subsection of
28 Section 304 of this Act as the taxpayer making the
29 election. No election allowed by this subparagraph
30 shall be made under a claim filed under subsection (d)
31 of Section 909 more than 30 days after the effective
32 date of this amendatory Act of 1996.

33 (F) Finance Leases. For purposes of this
34 subsection, a finance lease shall be treated as a loan
35 or other extension of credit, rather than as a lease,
36 regardless of how the transaction is characterized for

1 any other purpose, including the purposes of any
2 regulatory agency to which the lessor is subject. A
3 finance lease is any transaction in the form of a lease
4 in which the lessee is treated as the owner of the
5 leased asset entitled to any deduction for
6 depreciation allowed under Section 167 of the Internal
7 Revenue Code.

8 (9) Fiscal year. The term "fiscal year" means an
9 accounting period of 12 months ending on the last day of
10 any month other than December.

11 (10) Includes and including. The terms "includes" and
12 "including" when used in a definition contained in this Act
13 shall not be deemed to exclude other things otherwise
14 within the meaning of the term defined.

15 (11) Internal Revenue Code. The term "Internal Revenue
16 Code" means the United States Internal Revenue Code of 1954
17 or any successor law or laws relating to federal income
18 taxes in effect for the taxable year.

19 (11.5) Investment partnership.

20 (A) The term "investment partnership" means any
21 entity that is treated as a partnership for federal
22 income tax purposes that meets the following
23 requirements:

24 (i) no less than 90% of the partnership's cost
25 of its total assets consists of qualifying
26 investment securities, deposits at banks or other
27 financial institutions, and office space and
28 equipment reasonably necessary to carry on its
29 activities as an investment partnership;

30 (ii) no less than 90% of its gross income
31 consists of interest, dividends, and gains from
32 the sale or exchange of qualifying investment
33 securities; and

34 (iii) the partnership is not a dealer in
35 qualifying investment securities.

36 (B) For purposes of this paragraph (11.5), the term

1 "qualifying investment securities" includes all of the
2 following:

3 (i) common stock, including preferred or debt
4 securities convertible into common stock, and
5 preferred stock;

6 (ii) bonds, debentures, and other debt
7 securities;

8 (iii) foreign and domestic currency deposits
9 secured by federal, state, or local governmental
10 agencies;

11 (iv) mortgage or asset-backed securities
12 secured by federal, state, or local governmental
13 agencies;

14 (v) repurchase agreements and loan
15 participations;

16 (vi) foreign currency exchange contracts and
17 forward and futures contracts on foreign
18 currencies;

19 (vii) stock and bond index securities and
20 futures contracts and other similar financial
21 securities and futures contracts on those
22 securities;

23 (viii) options for the purchase or sale of any
24 of the securities, currencies, contracts, or
25 financial instruments described in items (i) to
26 (vii), inclusive;

27 (ix) regulated futures contracts;

28 (x) commodities (not described in Section
29 1221(a)(1) of the Internal Revenue Code) or
30 futures, forwards, and options with respect to
31 such commodities, provided, however, that any item
32 of a physical commodity to which title is actually
33 acquired in the partnership's capacity as a dealer
34 in such commodity shall not be a qualifying
35 investment security;

36 (xi) derivatives; and

1 (xii) a partnership interest in another
2 partnership that is an investment partnership.

3 (12) Mathematical error. The term "mathematical error"
4 includes the following types of errors, omissions, or
5 defects in a return filed by a taxpayer which prevents
6 acceptance of the return as filed for processing:

7 (A) arithmetic errors or incorrect computations on
8 the return or supporting schedules;

9 (B) entries on the wrong lines;

10 (C) omission of required supporting forms or
11 schedules or the omission of the information in whole
12 or in part called for thereon; and

13 (D) an attempt to claim, exclude, deduct, or
14 improperly report, in a manner directly contrary to the
15 provisions of the Act and regulations thereunder any
16 item of income, exemption, deduction, or credit.

17 (13) Nonbusiness income. The term "nonbusiness income"
18 means all income other than business income or
19 compensation.

20 (14) Nonresident. The term "nonresident" means a
21 person who is not a resident.

22 (15) Paid, incurred and accrued. The terms "paid",
23 "incurred" and "accrued" shall be construed according to
24 the method of accounting upon the basis of which the
25 person's base income is computed under this Act.

26 (16) Partnership and partner. The term "partnership"
27 includes a syndicate, group, pool, joint venture or other
28 unincorporated organization, through or by means of which
29 any business, financial operation, or venture is carried
30 on, and which is not, within the meaning of this Act, a
31 trust or estate or a corporation; and the term "partner"
32 includes a member in such syndicate, group, pool, joint
33 venture or organization.

34 The term "partnership" includes any entity, including
35 a limited liability company formed under the Illinois
36 Limited Liability Company Act, classified as a partnership

1 for federal income tax purposes.

2 The term "partnership" does not include a syndicate,
3 group, pool, joint venture, or other unincorporated
4 organization established for the sole purpose of playing
5 the Illinois State Lottery.

6 (17) Part-year resident. The term "part-year resident"
7 means an individual who became a resident during the
8 taxable year or ceased to be a resident during the taxable
9 year. Under Section 1501(a)(20)(A)(i) residence commences
10 with presence in this State for other than a temporary or
11 transitory purpose and ceases with absence from this State
12 for other than a temporary or transitory purpose. Under
13 Section 1501(a)(20)(A)(ii) residence commences with the
14 establishment of domicile in this State and ceases with the
15 establishment of domicile in another State.

16 (18) Person. The term "person" shall be construed to
17 mean and include an individual, a trust, estate,
18 partnership, association, firm, company, corporation,
19 limited liability company, or fiduciary. For purposes of
20 Section 1301 and 1302 of this Act, a "person" means (i) an
21 individual, (ii) a corporation, (iii) an officer, agent, or
22 employee of a corporation, (iv) a member, agent or employee
23 of a partnership, or (v) a member, manager, employee,
24 officer, director, or agent of a limited liability company
25 who in such capacity commits an offense specified in
26 Section 1301 and 1302.

27 (18A) Records. The term "records" includes all data
28 maintained by the taxpayer, whether on paper, microfilm,
29 microfiche, or any type of machine-sensible data
30 compilation.

31 (19) Regulations. The term "regulations" includes
32 rules promulgated and forms prescribed by the Department.

33 (20) Resident. The term "resident" means:

34 (A) an individual (i) who is in this State for
35 other than a temporary or transitory purpose during the
36 taxable year; or (ii) who is domiciled in this State

1 but is absent from the State for a temporary or
2 transitory purpose during the taxable year;

3 (B) The estate of a decedent who at his or her
4 death was domiciled in this State;

5 (C) A trust created by a will of a decedent who at
6 his death was domiciled in this State; and

7 (D) An irrevocable trust, the grantor of which was
8 domiciled in this State at the time such trust became
9 irrevocable. For purpose of this subparagraph, a trust
10 shall be considered irrevocable to the extent that the
11 grantor is not treated as the owner thereof under
12 Sections 671 through 678 of the Internal Revenue Code.

13 (21) Sales. The term "sales" means all gross receipts
14 of the taxpayer not allocated under Sections 301, 302 and
15 303.

16 (22) State. The term "state" when applied to a
17 jurisdiction other than this State means any state of the
18 United States, the District of Columbia, the Commonwealth
19 of Puerto Rico, any Territory or Possession of the United
20 States, and any foreign country, or any political
21 subdivision of any of the foregoing. For purposes of the
22 foreign tax credit under Section 601, the term "state"
23 means any state of the United States, the District of
24 Columbia, the Commonwealth of Puerto Rico, and any
25 territory or possession of the United States, or any
26 political subdivision of any of the foregoing, effective
27 for tax years ending on or after December 31, 1989.

28 (23) Taxable year. The term "taxable year" means the
29 calendar year, or the fiscal year ending during such
30 calendar year, upon the basis of which the base income is
31 computed under this Act. "Taxable year" means, in the case
32 of a return made for a fractional part of a year under the
33 provisions of this Act, the period for which such return is
34 made.

35 (24) Taxpayer. The term "taxpayer" means any person
36 subject to the tax imposed by this Act.

1 (25) International banking facility. The term
2 international banking facility shall have the same meaning
3 as is set forth in the Illinois Banking Act or as is set
4 forth in the laws of the United States or regulations of
5 the Board of Governors of the Federal Reserve System.

6 (26) Income Tax Return Preparer.

7 (A) The term "income tax return preparer" means any
8 person who prepares for compensation, or who employs
9 one or more persons to prepare for compensation, any
10 return of tax imposed by this Act or any claim for
11 refund of tax imposed by this Act. The preparation of a
12 substantial portion of a return or claim for refund
13 shall be treated as the preparation of that return or
14 claim for refund.

15 (B) A person is not an income tax return preparer
16 if all he or she does is

17 (i) furnish typing, reproducing, or other
18 mechanical assistance;

19 (ii) prepare returns or claims for refunds for
20 the employer by whom he or she is regularly and
21 continuously employed;

22 (iii) prepare as a fiduciary returns or claims
23 for refunds for any person; or

24 (iv) prepare claims for refunds for a taxpayer
25 in response to any notice of deficiency issued to
26 that taxpayer or in response to any waiver of
27 restriction after the commencement of an audit of
28 that taxpayer or of another taxpayer if a
29 determination in the audit of the other taxpayer
30 directly or indirectly affects the tax liability
31 of the taxpayer whose claims he or she is
32 preparing.

33 (27) Unitary business group. The term "unitary
34 business group" means a group of persons related through
35 common ownership whose business activities are integrated
36 with, dependent upon and contribute to each other. The

1 group will not include those members whose business
2 activity outside the United States is 80% or more of any
3 such member's total business activity; for purposes of this
4 paragraph and clause (a)(3)(B)(ii) of Section 304,
5 business activity within the United States shall be
6 measured by means of the factors ordinarily applicable
7 under subsections (a), (b), (c), (d), or (h) of Section 304
8 except that, in the case of members ordinarily required to
9 apportion business income by means of the 3 factor formula
10 of property, payroll and sales specified in subsection (a)
11 of Section 304, including the formula as weighted in
12 subsection (h) of Section 304, such members shall not use
13 the sales factor in the computation and the results of the
14 property and payroll factor computations of subsection (a)
15 of Section 304 shall be divided by 2 (by one if either the
16 property or payroll factor has a denominator of zero). The
17 computation required by the preceding sentence shall, in
18 each case, involve the division of the member's property,
19 payroll, or revenue miles in the United States, insurance
20 premiums on property or risk in the United States, or
21 financial organization business income from sources within
22 the United States, as the case may be, by the respective
23 worldwide figures for such items. Common ownership in the
24 case of corporations is the direct or indirect control or
25 ownership of more than 50% of the outstanding voting stock
26 of the persons carrying on unitary business activity.
27 Unitary business activity can ordinarily be illustrated
28 where the activities of the members are: (1) in the same
29 general line (such as manufacturing, wholesaling,
30 retailing of tangible personal property, insurance,
31 transportation or finance); or (2) are steps in a
32 vertically structured enterprise or process (such as the
33 steps involved in the production of natural resources,
34 which might include exploration, mining, refining, and
35 marketing); and, in either instance, the members are
36 functionally integrated through the exercise of strong

1 centralized management (where, for example, authority over
2 such matters as purchasing, financing, tax compliance,
3 product line, personnel, marketing and capital investment
4 is not left to each member). In no event, however, will any
5 unitary business group include members which are
6 ordinarily required to apportion business income under
7 different subsections of Section 304 except that for tax
8 years ending on or after December 31, 1987 this prohibition
9 shall not apply to a unitary business group composed of one
10 or more taxpayers all of which apportion business income
11 pursuant to subsection (b) of Section 304, or all of which
12 apportion business income pursuant to subsection (d) of
13 Section 304, and a holding company of such single-factor
14 taxpayers (see definition of "financial organization" for
15 rule regarding holding companies of financial
16 organizations). If a unitary business group would, but for
17 the preceding sentence, include members that are
18 ordinarily required to apportion business income under
19 different subsections of Section 304, then for each
20 subsection of Section 304 for which there are two or more
21 members, there shall be a separate unitary business group
22 composed of such members. For purposes of the preceding two
23 sentences, a member is "ordinarily required to apportion
24 business income" under a particular subsection of Section
25 304 if it would be required to use the apportionment method
26 prescribed by such subsection except for the fact that it
27 derives business income solely from Illinois. As used in
28 this paragraph, the phrase "United States" means only the
29 50 states and the District of Columbia, but does not
30 include any territory or possession of the United States or
31 any area over which the United States has asserted
32 jurisdiction or claimed exclusive rights with respect to
33 the exploration for or exploitation of natural resources.

34 If the unitary business group members' accounting
35 periods differ, the common parent's accounting period or,
36 if there is no common parent, the accounting period of the

1 member that is expected to have, on a recurring basis, the
2 greatest Illinois income tax liability must be used to
3 determine whether to use the apportionment method provided
4 in subsection (a) or subsection (h) of Section 304. The
5 prohibition against membership in a unitary business group
6 for taxpayers ordinarily required to apportion income
7 under different subsections of Section 304 does not apply
8 to taxpayers required to apportion income under subsection
9 (a) and subsection (h) of Section 304. The provisions of
10 this amendatory Act of 1998 apply to tax years ending on or
11 after December 31, 1998.

12 (28) Subchapter S corporation. The term "Subchapter S
13 corporation" means a corporation for which there is in
14 effect an election under Section 1362 of the Internal
15 Revenue Code, or for which there is a federal election to
16 opt out of the provisions of the Subchapter S Revision Act
17 of 1982 and have applied instead the prior federal
18 Subchapter S rules as in effect on July 1, 1982.

19 (30) Foreign person. The term "foreign person" means
20 any person who is a nonresident alien individual and any
21 nonindividual entity, regardless of where created or
22 organized, whose business activity outside the United
23 States is 80% or more of the entity's total business
24 activity.

25 (b) Other definitions.

26 (1) Words denoting number, gender, and so forth, when
27 used in this Act, where not otherwise distinctly expressed
28 or manifestly incompatible with the intent thereof:

29 (A) Words importing the singular include and apply
30 to several persons, parties or things;

31 (B) Words importing the plural include the
32 singular; and

33 (C) Words importing the masculine gender include
34 the feminine as well.

35 (2) "Company" or "association" as including successors

1 and assigns. The word "company" or "association", when used
2 in reference to a corporation, shall be deemed to embrace
3 the words "successors and assigns of such company or
4 association", and in like manner as if these last-named
5 words, or words of similar import, were expressed.

6 (3) Other terms. Any term used in any Section of this
7 Act with respect to the application of, or in connection
8 with, the provisions of any other Section of this Act shall
9 have the same meaning as in such other Section.

10 (Source: P.A. 91-535, eff. 1-1-00; 91-913, eff. 1-1-01; 92-846,
11 eff. 8-23-02.)

12 ARTICLE 30

13 Section 30-5. The Illinois Vehicle Code is amended by
14 changing Sections 2-119, 3-820, 3-821, and 11-501 and by adding
15 Section 3-821.2 as follows:

16 (625 ILCS 5/2-119) (from Ch. 95 1/2, par. 2-119)

17 Sec. 2-119. Disposition of fees and taxes.

18 (a) All moneys received from Salvage Certificates shall be
19 deposited in the Common School Fund in the State Treasury.

20 (b) Beginning January 1, 1990 and concluding December 31,
21 1994, of the money collected for each certificate of title,
22 duplicate certificate of title and corrected certificate of
23 title, \$0.50 shall be deposited into the Used Tire Management
24 Fund. Beginning January 1, 1990 and concluding December 31,
25 1994, of the money collected for each certificate of title,
26 duplicate certificate of title and corrected certificate of
27 title, \$1.50 shall be deposited in the Park and Conservation
28 Fund.

29 Beginning January 1, 1995, of the money collected for each
30 certificate of title, duplicate certificate of title and
31 corrected certificate of title, \$2 shall be deposited in the
32 Park and Conservation Fund. The moneys deposited in the Park
33 and Conservation Fund pursuant to this Section shall be used

1 for the acquisition and development of bike paths as provided
2 for in Section 805-420 of the Department of Natural Resources
3 (Conservation) Law (20 ILCS 805/805-420).

4 Beginning January 1, 2000, of the moneys collected for each
5 certificate of title, duplicate certificate of title, and
6 corrected certificate of title, \$48 shall be deposited into the
7 Road Fund and \$4 shall be deposited into the Motor Vehicle
8 License Plate Fund, except that if the balance in the Motor
9 Vehicle License Plate Fund exceeds \$40,000,000 on the last day
10 of a calendar month, then during the next calendar month the \$4
11 shall instead be deposited into the Road Fund.

12 Beginning January 1, 2005, of the moneys collected for each
13 delinquent vehicle registration renewal fee, \$20 shall be
14 deposited into the General Revenue Fund.

15 Except as otherwise provided in this Code, all remaining
16 moneys collected for certificates of title, and all moneys
17 collected for filing of security interests, shall be placed in
18 the General Revenue Fund in the State Treasury.

19 (c) All moneys collected for that portion of a driver's
20 license fee designated for driver education under Section 6-118
21 shall be placed in the Driver Education Fund in the State
22 Treasury.

23 (d) Beginning January 1, 1999, of the monies collected as a
24 registration fee for each motorcycle, motor driven cycle and
25 motorized pedalcycle, 27% of each annual registration fee for
26 such vehicle and 27% of each semiannual registration fee for
27 such vehicle is deposited in the Cycle Rider Safety Training
28 Fund.

29 (e) Of the monies received by the Secretary of State as
30 registration fees or taxes or as payment of any other fee, as
31 provided in this Act, except fees received by the Secretary
32 under paragraph (7) of subsection (b) of Section 5-101 and
33 Section 5-109 of this Code, 37% shall be deposited into the
34 State Construction Fund.

35 (f) Of the total money collected for a CDL instruction
36 permit or original or renewal issuance of a commercial driver's

1 license (CDL) pursuant to the Uniform Commercial Driver's
2 License Act (UCDLA): (i) \$6 of the total fee for an original or
3 renewal CDL, and \$6 of the total CDL instruction permit fee
4 when such permit is issued to any person holding a valid
5 Illinois driver's license, shall be paid into the
6 CDLIS/AAMVAnet Trust Fund (Commercial Driver's License
7 Information System/American Association of Motor Vehicle
8 Administrators network Trust Fund) and shall be used for the
9 purposes provided in Section 6z-23 of the State Finance Act and
10 (ii) \$20 of the total fee for an original or renewal CDL or
11 commercial driver instruction permit shall be paid into the
12 Motor Carrier Safety Inspection Fund, which is hereby created
13 as a special fund in the State Treasury, to be used by the
14 Department of State Police, subject to appropriation, to hire
15 additional officers to conduct motor carrier safety
16 inspections pursuant to Chapter 18b of this Code.

17 (g) All remaining moneys received by the Secretary of State
18 as registration fees or taxes or as payment of any other fee,
19 as provided in this Act, except fees received by the Secretary
20 under paragraph (7) (A) of subsection (b) of Section 5-101 and
21 Section 5-109 of this Code, shall be deposited in the Road Fund
22 in the State Treasury. Moneys in the Road Fund shall be used
23 for the purposes provided in Section 8.3 of the State Finance
24 Act.

25 (h) (Blank).

26 (i) (Blank).

27 (j) (Blank).

28 (k) There is created in the State Treasury a special fund
29 to be known as the Secretary of State Special License Plate
30 Fund. Money deposited into the Fund shall, subject to
31 appropriation, be used by the Office of the Secretary of State
32 (i) to help defray plate manufacturing and plate processing
33 costs for the issuance and, when applicable, renewal of any new
34 or existing registration plates authorized under this Code and
35 (ii) for grants made by the Secretary of State to benefit
36 Illinois Veterans Home libraries.

1 On or before October 1, 1995, the Secretary of State shall
2 direct the State Comptroller and State Treasurer to transfer
3 any unexpended balance in the Special Environmental License
4 Plate Fund, the Special Korean War Veteran License Plate Fund,
5 and the Retired Congressional License Plate Fund to the
6 Secretary of State Special License Plate Fund.

7 (l) The Motor Vehicle Review Board Fund is created as a
8 special fund in the State Treasury. Moneys deposited into the
9 Fund under paragraph (7) of subsection (b) of Section 5-101 and
10 Section 5-109 shall, subject to appropriation, be used by the
11 Office of the Secretary of State to administer the Motor
12 Vehicle Review Board, including without limitation payment of
13 compensation and all necessary expenses incurred in
14 administering the Motor Vehicle Review Board under the Motor
15 Vehicle Franchise Act.

16 (m) Effective July 1, 1996, there is created in the State
17 Treasury a special fund to be known as the Family
18 Responsibility Fund. Moneys deposited into the Fund shall,
19 subject to appropriation, be used by the Office of the
20 Secretary of State for the purpose of enforcing the Family
21 Financial Responsibility Law.

22 (n) The Illinois Fire Fighters' Memorial Fund is created as
23 a special fund in the State Treasury. Moneys deposited into the
24 Fund shall, subject to appropriation, be used by the Office of
25 the State Fire Marshal for construction of the Illinois Fire
26 Fighters' Memorial to be located at the State Capitol grounds
27 in Springfield, Illinois. Upon the completion of the Memorial,
28 moneys in the Fund shall be used in accordance with Section
29 3-634.

30 (o) Of the money collected for each certificate of title
31 for all-terrain vehicles and off-highway motorcycles, \$17
32 shall be deposited into the Off-Highway Vehicle Trails Fund.

33 (p) For audits conducted on or after July 1, 2003 pursuant
34 to Section 2-124(d) of this Code, 50% of the money collected as
35 audit fees shall be deposited into the General Revenue Fund.

36 (Source: P.A. 92-16, eff. 6-28-01; 93-32, eff. 7-1-03.)

1 (625 ILCS 5/3-820) (from Ch. 95 1/2, par. 3-820)

2 Sec. 3-820. Duplicate Number Plates. Upon filing in the
3 Office of the Secretary of State an affidavit to the effect
4 that an original number plate for a vehicle is lost, stolen or
5 destroyed, a duplicate number plate shall be furnished upon
6 payment of a fee of \$6 for each duplicate plate and a fee of \$9
7 for a pair of duplicate plates.

8 Upon filing in the Office of the Secretary of State an
9 affidavit to the effect that an original registration sticker
10 for a vehicle is lost, stolen or destroyed, a new registration
11 sticker shall be furnished upon payment of a fee of \$5.

12 The Secretary of State may, in his discretion, assign a new
13 number plate or plates in lieu of a duplicate of the plate or
14 plates so lost, stolen or destroyed, but such assignment of a
15 new plate or plates shall not affect the right of the owner to
16 secure a reassignment of his original registration number in
17 the manner provided in this Act. The fee for one new number
18 plate shall be \$6, and for a pair of new number plates, \$9.

19 For the administration of this Section, the Secretary shall
20 consider the loss of a registration plate or plates with
21 properly affixed registration stickers as requiring the
22 payment of: ~~either~~

23 (i) \$11 for each duplicate; ~~or~~

24 (ii) \$14 for a pair of duplicate plates; or

25 (iii) \$39 for a pair of duplicate plates on or after
26 January 1, 2005, which includes a fee of \$20 for the
27 replacement sticker ~~or \$19 for a pair of duplicate plates~~
28 ~~if stickers are required on both front and rear~~
29 ~~registration plates.~~

30 (Source: P.A. 91-37, eff. 7-1-99.)

31 (625 ILCS 5/3-821) (from Ch. 95 1/2, par. 3-821)

32 Sec. 3-821. Miscellaneous Registration and Title Fees.

33 (a) The fee to be paid to the Secretary of State for the
34 following certificates, registrations or evidences of proper

1 registration, or for corrected or duplicate documents shall be
2 in accordance with the following schedule:

3 Certificate of Title, except for an all-terrain
4 vehicle or off-highway motorcycle \$65

5 Certificate of Title for an all-terrain vehicle
6 or off-highway motorcycle \$30

7 Certificate of Title for an all-terrain vehicle
8 or off-highway motorcycle used for production
9 agriculture, or accepted by a dealer in trade 13

10 Transfer of Registration or any evidence of
11 proper registration 15

12 Duplicate Registration Card for plates or other
13 evidence of proper registration 3

14 Duplicate Registration Sticker or Stickers, each
15 Duplicate Certificate of Title 65

16 Corrected Registration Card or Card for other
17 evidence of proper registration 3

18 Corrected Certificate of Title 65

19 Salvage Certificate 4

20 Fleet Reciprocity Permit 15

21 Prorate Decal 1

22 Prorate Backing Plate 3

23 There shall be no fee paid for a Junking Certificate.

24 (b) The Secretary may prescribe the maximum service charge
25 to be imposed upon an applicant for renewal of a registration
26 by any person authorized by law to receive and remit or
27 transmit to the Secretary such renewal application and fees
28 therewith.

29 (c) If a check is delivered to the Office of the Secretary
30 of State as payment of any fee or tax under this Code, and such
31 check is not honored by the bank on which it is drawn for any
32 reason, the registrant or other person tendering the check
33 remains liable for the payment of such fee or tax. The
34 Secretary of State may assess a service charge of \$19 in
35 addition to the fee or tax due and owing for all dishonored
36 checks.

1 If the total amount then due and owing exceeds the sum of
2 \$50 and has not been paid in full within 60 days from the date
3 such fee or tax became due to the Secretary of State, the
4 Secretary of State shall assess a penalty of 25% of such amount
5 remaining unpaid.

6 All amounts payable under this Section shall be computed to
7 the nearest dollar.

8 (d) The minimum fee and tax to be paid by any applicant for
9 apportionment of a fleet of vehicles under this Code shall be
10 \$15 if the application was filed on or before the date
11 specified by the Secretary together with fees and taxes due. If
12 an application and the fees or taxes due are filed after the
13 date specified by the Secretary, the Secretary may prescribe
14 the payment of interest at the rate of 1/2 of 1% per month or
15 fraction thereof after such due date and a minimum of \$8.

16 (e) Trucks, truck tractors, truck tractors with loads, and
17 motor buses, any one of which having a combined total weight in
18 excess of 12,000 lbs. shall file an application for a Fleet
19 Reciprocity Permit issued by the Secretary of State. This
20 permit shall be in the possession of any driver operating a
21 vehicle on Illinois highways. Any foreign licensed vehicle of
22 the second division operating at any time in Illinois without a
23 Fleet Reciprocity Permit or other proper Illinois
24 registration, shall subject the operator to the penalties
25 provided in Section 3-834 of this Code. For the purposes of
26 this Code, "Fleet Reciprocity Permit" means any second division
27 motor vehicle with a foreign license and used only in
28 interstate transportation of goods. The fee for such permit
29 shall be \$15 per fleet which shall include all vehicles of the
30 fleet being registered.

31 (f) For purposes of this Section, "all-terrain vehicle or
32 off-highway motorcycle used for production agriculture" means
33 any all-terrain vehicle or off-highway motorcycle used in the
34 raising of or the propagation of livestock, crops for sale for
35 human consumption, crops for livestock consumption, and
36 production seed stock grown for the propagation of feed grains

1 and the husbandry of animals or for the purpose of providing a
2 food product, including the husbandry of blood stock as a main
3 source of providing a food product. "All-terrain vehicle or
4 off-highway motorcycle used in production agriculture" also
5 means any all-terrain vehicle or off-highway motorcycle used in
6 animal husbandry, floriculture, aquaculture, horticulture, and
7 viticulture.

8 (Source: P.A. 91-37, eff. 7-1-99; 91-441, eff. 1-1-00; 92-16,
9 eff. 6-28-01.)

10 (625 ILCS 5/3-821.2 new)

11 Sec. 3-821.2. Delinquent Registration Renewal Fee. For
12 registration renewal periods beginning on or after January 1,
13 2005, the Secretary of State may impose a delinquent
14 registration renewal fee of \$20 for the registration renewal of
15 all passenger vehicles of the first division and motor vehicles
16 of the second division weighing not more than 8,000 pounds if
17 the application for registration renewal is received by the
18 Secretary more than one month after the expiration of the most
19 recent period during which the vehicle was registered. If a
20 delinquent registration renewal fee is imposed, the Secretary
21 shall not renew the registration of such a vehicle until the
22 delinquent registration renewal fee has been paid, in addition
23 to any other registration fees owed for the vehicle. Active
24 duty military personnel stationed outside of Illinois shall not
25 be required to pay the delinquent registration renewal fee. If
26 a delinquent registration renewal fee is imposed, the Secretary
27 shall adopt rules for the implementation of this Section.

28 (625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

29 Sec. 11-501. Driving while under the influence of alcohol,
30 other drug or drugs, intoxicating compound or compounds or any
31 combination thereof.

32 (a) A person shall not drive or be in actual physical
33 control of any vehicle within this State while:

34 (1) the alcohol concentration in the person's blood or

1 breath is 0.08 or more based on the definition of blood and
2 breath units in Section 11-501.2;

3 (2) under the influence of alcohol;

4 (3) under the influence of any intoxicating compound or
5 combination of intoxicating compounds to a degree that
6 renders the person incapable of driving safely;

7 (4) under the influence of any other drug or
8 combination of drugs to a degree that renders the person
9 incapable of safely driving;

10 (5) under the combined influence of alcohol, other drug
11 or drugs, or intoxicating compound or compounds to a degree
12 that renders the person incapable of safely driving; or

13 (6) there is any amount of a drug, substance, or
14 compound in the person's breath, blood, or urine resulting
15 from the unlawful use or consumption of cannabis listed in
16 the Cannabis Control Act, a controlled substance listed in
17 the Illinois Controlled Substances Act, or an intoxicating
18 compound listed in the Use of Intoxicating Compounds Act.

19 (b) The fact that any person charged with violating this
20 Section is or has been legally entitled to use alcohol, other
21 drug or drugs, or intoxicating compound or compounds, or any
22 combination thereof, shall not constitute a defense against any
23 charge of violating this Section.

24 (c) Except as provided under paragraphs (c-3), (c-4), and
25 (d) of this Section, every person convicted of violating this
26 Section or a similar provision of a local ordinance, shall be
27 guilty of a Class A misdemeanor and, in addition to any other
28 criminal or administrative action, for any second conviction of
29 violating this Section or a similar provision of a law of
30 another state or local ordinance committed within 5 years of a
31 previous violation of this Section or a similar provision of a
32 local ordinance shall be mandatorily sentenced to a minimum of
33 5 days of imprisonment or assigned to a minimum of 30 days of
34 community service as may be determined by the court. Every
35 person convicted of violating this Section or a similar
36 provision of a local ordinance shall be subject to an

1 additional mandatory minimum fine of \$500 and an additional
2 mandatory 5 days of community service in a program benefiting
3 children if the person committed a violation of paragraph (a)
4 or a similar provision of a local ordinance while transporting
5 a person under age 16. Every person convicted a second time for
6 violating this Section or a similar provision of a local
7 ordinance within 5 years of a previous violation of this
8 Section or a similar provision of a law of another state or
9 local ordinance shall be subject to an additional mandatory
10 minimum fine of \$500 and an additional 10 days of mandatory
11 community service in a program benefiting children if the
12 current offense was committed while transporting a person under
13 age 16. The imprisonment or assignment under this subsection
14 shall not be subject to suspension nor shall the person be
15 eligible for probation in order to reduce the sentence or
16 assignment.

17 (c-1) (1) A person who violates this Section during a
18 period in which his or her driving privileges are revoked
19 or suspended, where the revocation or suspension was for a
20 violation of this Section, Section 11-501.1, paragraph (b)
21 of Section 11-401, or Section 9-3 of the Criminal Code of
22 1961 is guilty of a Class 4 felony.

23 (2) A person who violates this Section a third time
24 during a period in which his or her driving privileges are
25 revoked or suspended where the revocation or suspension was
26 for a violation of this Section, Section 11-501.1,
27 paragraph (b) of Section 11-401, or Section 9-3 of the
28 Criminal Code of 1961 is guilty of a Class 3 felony.

29 (3) A person who violates this Section a fourth or
30 subsequent time during a period in which his or her driving
31 privileges are revoked or suspended where the revocation or
32 suspension was for a violation of this Section, Section
33 11-501.1, paragraph (b) of Section 11-401, or Section 9-3
34 of the Criminal Code of 1961 is guilty of a Class 2 felony.

35 (c-2) (Blank).

36 (c-3) Every person convicted of violating this Section or a

1 similar provision of a local ordinance who had a child under
2 age 16 in the vehicle at the time of the offense shall have his
3 or her punishment under this Act enhanced by 2 days of
4 imprisonment for a first offense, 10 days of imprisonment for a
5 second offense, 30 days of imprisonment for a third offense,
6 and 90 days of imprisonment for a fourth or subsequent offense,
7 in addition to the fine and community service required under
8 subsection (c) and the possible imprisonment required under
9 subsection (d). The imprisonment or assignment under this
10 subsection shall not be subject to suspension nor shall the
11 person be eligible for probation in order to reduce the
12 sentence or assignment.

13 (c-4) When a person is convicted of violating Section
14 11-501 of this Code or a similar provision of a local
15 ordinance, the following penalties apply when his or her blood,
16 breath, or urine was .16 or more based on the definition of
17 blood, breath, or urine units in Section 11-501.2 or when that
18 person is convicted of violating this Section while
19 transporting a child under the age of 16:

20 (1) A person who is convicted of violating subsection
21 (a) of Section 11-501 of this Code a first time, in
22 addition to any other penalty that may be imposed under
23 subsection (c), is subject to a mandatory minimum of 100
24 hours of community service and a minimum fine of \$500.

25 (2) A person who is convicted of violating subsection
26 (a) of Section 11-501 of this Code a second time within 10
27 years, in addition to any other penalty that may be imposed
28 under subsection (c), is subject to a mandatory minimum of
29 2 days of imprisonment and a minimum fine of \$1,250.

30 (3) A person who is convicted of violating subsection
31 (a) of Section 11-501 of this Code a third time within 20
32 years is guilty of a Class 4 felony and, in addition to any
33 other penalty that may be imposed under subsection (c), is
34 subject to a mandatory minimum of 90 days of imprisonment
35 and a minimum fine of \$2,500.

36 (4) A person who is convicted of violating this

1 subsection (c-4) a fourth or subsequent time is guilty of a
2 Class 2 felony and, in addition to any other penalty that
3 may be imposed under subsection (c), is not eligible for a
4 sentence of probation or conditional discharge and is
5 subject to a minimum fine of \$2,500.

6 (d) (1) Every person convicted of committing a violation of
7 this Section shall be guilty of aggravated driving under
8 the influence of alcohol, other drug or drugs, or
9 intoxicating compound or compounds, or any combination
10 thereof if:

11 (A) the person committed a violation of this
12 Section, or a similar provision of a law of another
13 state or a local ordinance when the cause of action is
14 the same as or substantially similar to this Section,
15 for the third or subsequent time;

16 (B) the person committed a violation of paragraph
17 (a) while driving a school bus with children on board;

18 (C) the person in committing a violation of
19 paragraph (a) was involved in a motor vehicle accident
20 that resulted in great bodily harm or permanent
21 disability or disfigurement to another, when the
22 violation was a proximate cause of the injuries;

23 (D) the person committed a violation of paragraph
24 (a) for a second time and has been previously convicted
25 of violating Section 9-3 of the Criminal Code of 1961
26 relating to reckless homicide in which the person was
27 determined to have been under the influence of alcohol,
28 other drug or drugs, or intoxicating compound or
29 compounds as an element of the offense or the person
30 has previously been convicted under subparagraph (C)
31 or subparagraph (F) of this paragraph (1);

32 (E) the person, in committing a violation of
33 paragraph (a) while driving at any speed in a school
34 speed zone at a time when a speed limit of 20 miles per
35 hour was in effect under subsection (a) of Section
36 11-605 of this Code, was involved in a motor vehicle

1 accident that resulted in bodily harm, other than great
2 bodily harm or permanent disability or disfigurement,
3 to another person, when the violation of paragraph (a)
4 was a proximate cause of the bodily harm; or

5 (F) the person, in committing a violation of
6 paragraph (a), was involved in a motor vehicle,
7 snowmobile, all-terrain vehicle, or watercraft
8 accident that resulted in the death of another person,
9 when the violation of paragraph (a) was a proximate
10 cause of the death.

11 (2) Except as provided in this paragraph (2),
12 aggravated driving under the influence of alcohol, other
13 drug or drugs, or intoxicating compound or compounds, or
14 any combination thereof is a Class 4 felony. For a
15 violation of subparagraph (C) of paragraph (1) of this
16 subsection (d), the defendant, if sentenced to a term of
17 imprisonment, shall be sentenced to not less than one year
18 nor more than 12 years. Aggravated driving under the
19 influence of alcohol, other drug or drugs, or intoxicating
20 compound or compounds, or any combination thereof as
21 defined in subparagraph (F) of paragraph (1) of this
22 subsection (d) is a Class 2 felony, for which the
23 defendant, if sentenced to a term of imprisonment, shall be
24 sentenced to: (A) a term of imprisonment of not less than 3
25 years and not more than 14 years if the violation resulted
26 in the death of one person; or (B) a term of imprisonment
27 of not less than 6 years and not more than 28 years if the
28 violation resulted in the deaths of 2 or more persons. For
29 any prosecution under this subsection (d), a certified copy
30 of the driving abstract of the defendant shall be admitted
31 as proof of any prior conviction.

32 (e) After a finding of guilt and prior to any final
33 sentencing, or an order for supervision, for an offense based
34 upon an arrest for a violation of this Section or a similar
35 provision of a local ordinance, individuals shall be required
36 to undergo a professional evaluation to determine if an

1 alcohol, drug, or intoxicating compound abuse problem exists
2 and the extent of the problem, and undergo the imposition of
3 treatment as appropriate. Programs conducting these
4 evaluations shall be licensed by the Department of Human
5 Services. The cost of any professional evaluation shall be paid
6 for by the individual required to undergo the professional
7 evaluation.

8 (e-1) Any person who is found guilty of or pleads guilty to
9 violating this Section, including any person receiving a
10 disposition of court supervision for violating this Section,
11 may be required by the Court to attend a victim impact panel
12 offered by, or under contract with, a County State's Attorney's
13 office, a probation and court services department, Mothers
14 Against Drunk Driving, or the Alliance Against Intoxicated
15 Motorists. All costs generated by the victim impact panel shall
16 be paid from fees collected from the offender or as may be
17 determined by the court.

18 (f) Every person found guilty of violating this Section,
19 whose operation of a motor vehicle while in violation of this
20 Section proximately caused any incident resulting in an
21 appropriate emergency response, shall be liable for the expense
22 of an emergency response as provided under Section 5-5-3 of the
23 Unified Code of Corrections.

24 (g) The Secretary of State shall revoke the driving
25 privileges of any person convicted under this Section or a
26 similar provision of a local ordinance.

27 (h) Every person sentenced under paragraph (2) or (3) of
28 subsection (c-1) of this Section or subsection (d) of this
29 Section and who receives a term of probation or conditional
30 discharge shall be required to serve a minimum term of either
31 60 days community service or 10 days of imprisonment as a
32 condition of the probation or conditional discharge. This
33 mandatory minimum term of imprisonment or assignment of
34 community service shall not be suspended and shall not be
35 subject to reduction by the court.

36 (i) The Secretary of State shall require the use of

1 ignition interlock devices on all vehicles owned by an
2 individual who has been convicted of a second or subsequent
3 offense of this Section or a similar provision of a local
4 ordinance. The Secretary shall establish by rule and regulation
5 the procedures for certification and use of the interlock
6 system.

7 (j) In addition to any other penalties and liabilities, a
8 person who is found guilty of or pleads guilty to violating
9 this Section, including any person placed on court supervision
10 for violating this Section, shall be fined \$500 ~~\$100~~, payable
11 to the circuit clerk, who shall distribute the money as
12 follows: 20% to the law enforcement agency that made the arrest
13 and 80% shall be forwarded to the State Treasurer for deposit
14 into the General Revenue Fund. If the person has been
15 previously convicted of violating this Section or a similar
16 provision of a local ordinance, the fine shall be \$1,000 ~~\$200~~.
17 In the event that more than one agency is responsible for the
18 arrest, the amount payable to law enforcement agencies ~~\$100 or~~
19 ~~\$200~~ shall be shared equally. Any moneys received by a law
20 enforcement agency under this subsection (j) shall be used to
21 purchase law enforcement equipment that will assist in the
22 prevention of alcohol related criminal violence throughout the
23 State. This shall include, but is not limited to, in-car video
24 cameras, radar and laser speed detection devices, and alcohol
25 breath testers. Any moneys received by the Department of State
26 Police under this subsection (j) shall be deposited into the
27 State Police DUI Fund and shall be used to purchase law
28 enforcement equipment that will assist in the prevention of
29 alcohol related criminal violence throughout the State.

30 (k) The Secretary of State Police DUI Fund is created as a
31 special fund in the State treasury. All moneys received by the
32 Secretary of State Police under subsection (j) of this Section
33 shall be deposited into the Secretary of State Police DUI Fund
34 and, subject to appropriation, shall be used to purchase law
35 enforcement equipment to assist in the prevention of alcohol
36 related criminal violence throughout the State.

1 (Source: P.A. 92-248, eff. 8-3-01; 92-418, eff. 8-17-01;
2 92-420, eff. 8-17-01; 92-429, eff. 1-1-02; 92-431, eff. 1-1-02;
3 92-651, eff. 7-11-02; 93-156, eff. 1-1-04; 93-213, eff.
4 7-18-03; 93-584, eff. 8-22-03; revised 8-27-03.)

5 ARTICLE 35

6 Section 35-1. Short title. This Article may be cited as the
7 Tax Shelter Voluntary Compliance Law, and references in this
8 Article to "this Law" mean this Article.

9 Section 35-5. Tax Shelter Voluntary Compliance Program.

10 (a) In general. The Department of Revenue shall establish
11 and administer a tax shelter voluntary compliance program as
12 provided in this Section for eligible taxpayers subject to tax
13 under the Illinois Income Tax Act. The tax shelter voluntary
14 compliance program shall be conducted from October 15, 2004 to
15 January 31, 2005 and shall apply to tax liabilities under
16 Section 201 of the Illinois Income Tax Act attributable to the
17 use of tax avoidance transactions for taxable years beginning
18 before January 1, 2004. The Department shall adopt rules, issue
19 forms and instructions, and take such other actions as it deems
20 necessary to implement the provisions of this Law. Any
21 correspondence mailed by the Department to a taxpayer at the
22 taxpayer's last known address outlining the tax shelter
23 voluntary compliance program constitutes a "contact" within
24 the meaning of Sections 1005(b)(6) and 1005(c) of the Illinois
25 Income Tax Act.

26 (b) Election. An eligible taxpayer that meets the
27 requirements of subsection (c) of this Section with respect to
28 any taxable year to which this Law applies may elect to
29 participate in the tax shelter voluntary compliance program
30 under either method for any particular tax avoidance
31 transaction period. Such election shall be made separately for
32 each taxable year and in the form and manner prescribed by the
33 Department, and once made shall be irrevocable.

1 (1) Voluntary compliance without appeal. If an
2 eligible taxpayer elects to participate under this
3 paragraph, then: (i) the Department shall abate and not
4 seek to collect any penalty that may be applicable to the
5 underreporting or underpayment of Illinois income tax
6 attributable to the use of tax avoidance transactions for
7 such taxable year, (ii) except as otherwise provided in
8 this Law, the Department shall not seek civil or criminal
9 prosecution against the taxpayer for such taxable year with
10 respect to tax avoidance transactions, and (iii) the
11 taxpayer may not file a claim for credit or refund with
12 respect to the tax avoidance transaction for such taxable
13 year. Nothing in this subsection shall preclude a taxpayer
14 from filing a claim for credit or refund for the same
15 taxable year in which a tax avoidance transaction was
16 reported if such credit or refund is not attributable to
17 the tax avoidance transaction. No penalty may be waived or
18 abated under this Law if the penalty imposed related to an
19 amount of Illinois income tax assessed prior to October 15,
20 2004.

21 (2) Voluntary compliance with appeal. If an eligible
22 taxpayer elects to participate under this paragraph, then:
23 (i) the Department shall abate and not seek to collect the
24 penalties imposed under Sections 1005(b) and 1005(c) of the
25 Illinois Income Tax Act with respect to such taxable year,
26 (ii) except as otherwise provided in this Act, the
27 Department shall not seek civil or criminal prosecution
28 against the taxpayer for such taxable year with respect to
29 tax avoidance transactions, and (iii) the taxpayer may file
30 a claim for credit or refund as provided in the Illinois
31 Income Tax Act with respect to such taxable year.
32 Notwithstanding Section 909(e) of the Illinois Income Tax
33 Act, the taxpayer may not file a written protest until
34 after either of the following: (i) the Department issues a
35 notice of denial, or (ii) the earlier of (1) the date which
36 is 180 days after the date of a final determination by the

1 Internal Revenue Service with respect to the transactions
2 at issue, or (2) the date that is 3 years after the date
3 the claim for refund was filed or one year after full
4 payment of all tax, including penalty and interest. No
5 penalty may be waived or abated under this Act if the
6 penalty imposed relates to an amount of Illinois income tax
7 assessed prior to October 15, 2004.

8 (c) Eligible taxpayer. The tax shelter voluntary
9 compliance program applies to any taxpayer who, during the
10 period from October 15, 2004 to January 31, 2005, does both of
11 the following:

12 (1) Files an amended return for the taxable year for
13 which the taxpayer used a tax avoidance transaction to
14 under report the taxpayer's Illinois income tax liability,
15 reporting the total Illinois net income and tax for such
16 taxable year computed without regard to any tax avoidance
17 transactions;

18 (2) Makes full payment of the additional Illinois
19 income tax and interest due for such taxable year that is
20 attributable to the use of the tax avoidance transaction
21 (not including a payment made under protest as provided in
22 Section 2a.1 of the State Officers and Employees Money
23 Disposition Act (30 ILCS 230/2a.1));

24 For purposes of this subsection (c), if the Department
25 subsequently determines that the correct amount of Illinois
26 income tax was not paid for the taxable year, then the penalty
27 relief under this Section shall not apply to any portion of the
28 underpayment attributable to a tax avoidance transaction not
29 paid to the State.

30 Section 35-10. "Tax avoidance transaction" defined. For
31 purposes of this Law, the term "tax avoidance transaction"
32 means a plan or arrangement devised for the principal purpose
33 of avoiding federal income tax. Tax avoidance transactions
34 include, but are not limited to, "listed transactions" as
35 defined in Treasury Regulations Section 1.6011-4(b)(2).

1 Section 35-15. Use of evidence of participation in the
2 program. The fact of a taxpayer's participation in the tax
3 shelter voluntary compliance program shall not be considered
4 evidence that the taxpayer in fact engaged in a tax avoidance
5 transaction.

6 Section 35-90. The Illinois Income Tax Act is amended by
7 changing Sections 501, 905, 1001, 1002, and 1005 and by adding
8 Sections 1007, 1008, 1405.5, and 1405.6 as follows:

9 (35 ILCS 5/501) (from Ch. 120, par. 5-501)

10 Sec. 501. Notice or Regulations Requiring Records,
11 Statements and Special Returns.

12 (a) In general. Every person liable for any tax imposed by
13 this Act shall keep such records, render such statements, make
14 such returns and notices, and comply with such rules and
15 regulations as the Department may from time to time prescribe.
16 Whenever in the judgment of the Director it is necessary, he
17 may require any person, by notice served upon such person or by
18 regulations, to make such returns and notices, render such
19 statements, or keep such records, as the Director deems
20 sufficient to show whether or not such person is liable for tax
21 under this Act.

22 (b) Reportable transactions. For each taxable year in which
23 a taxpayer is required to make a disclosure statement under
24 Treasury Regulations Section 1.6011-4 (26 CFR 1.6011-4)
25 (including any taxpayer that is a member of a consolidated
26 group required to make such disclosure) with respect to a
27 reportable transaction (including a listed transaction) in
28 which the taxpayer participated in a taxable year for which a
29 return is required under Section 502 of this Act, such taxpayer
30 shall file a copy of such disclosure with the Department.
31 Disclosure under this subsection is required to be made by any
32 taxpayer that is a member of a unitary business group that
33 includes any person required to make a disclosure statement

1 under Treasury Regulations Section 1.6011-4. Disclosure under
2 this subsection is required with respect to any transaction
3 entered into after February 28, 2000 that becomes a listed
4 transaction at any time, and shall be made in the manner
5 prescribed by the Department. With respect to transactions in
6 which the taxpayer participated for taxable years ending before
7 December 31, 2004, disclosure shall be made by the due date
8 (including extensions) of the first return required under
9 Section 502 of this Act due after the effective date of this
10 amendatory Act of the 93rd General Assembly. With respect to
11 transactions in which the taxpayer participated for taxable
12 years ending on and after December 31, 2004, disclosure shall
13 be made in the time and manner prescribed in Treasury
14 Regulations Section 1.6011-4(e). Notwithstanding the above, no
15 disclosure is required for transactions entered into after
16 February 28, 2000 and before January 1, 2005 (i) if the
17 taxpayer has filed an amended Illinois income tax return which
18 reverses the tax benefits of the potential tax avoidance
19 transaction, or (ii) as a result of a federal audit the
20 Internal Revenue Service has determined the tax treatment of
21 the transaction and an Illinois amended return has been filed
22 to reflect the federal treatment.

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

24 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

25 Sec. 905. Limitations on Notices of Deficiency.

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

27 (1) A notice of deficiency shall be issued not later
28 than 3 years after the date the return was filed, and

29 (2) No deficiency shall be assessed or collected with
30 respect to the year for which the return was filed unless
31 such notice is issued within such period.

32 (b) Substantial omission of items.

33 (1) Omission of more than 25% of income. If the
34 taxpayer omits from base income an amount properly
35 includible therein which is in excess of 25% of the amount

1 of base income stated in the return, a notice of deficiency
2 may be issued not later than 6 years after the return was
3 filed. For purposes of this paragraph, there shall not be
4 taken into account any amount which is omitted in the
5 return if such amount is disclosed in the return, or in a
6 statement attached to the return, in a manner adequate to
7 apprise the Department of the nature and the amount of such
8 item.

9 (2) Reportable transactions. If a taxpayer fails to
10 include on any return or statement for any taxable year any
11 information with respect to a reportable transaction, as
12 required under Section 501(b) of this Act, a notice of
13 deficiency may be issued not later than 6 years after the
14 return is filed with respect to the taxable year in which
15 the taxpayer participated in the reportable transaction
16 and said deficiency is limited to the non-disclosed item.

17 (c) No return or fraudulent return. If no return is filed
18 or a false and fraudulent return is filed with intent to evade
19 the tax imposed by this Act, a notice of deficiency may be
20 issued at any time.

21 (d) Failure to report federal change. If a taxpayer fails
22 to notify the Department in any case where notification is
23 required by Section 304(c) or 506(b), or fails to report a
24 change or correction which is treated in the same manner as if
25 it were a deficiency for federal income tax purposes, a notice
26 of deficiency may be issued (i) at any time or (ii) on or after
27 August 13, 1999, at any time for the taxable year for which the
28 notification is required or for any taxable year to which the
29 taxpayer may carry an Article 2 credit, or a Section 207 loss,
30 earned, incurred, or used in the year for which the
31 notification is required; provided, however, that the amount of
32 any proposed assessment set forth in the notice shall be
33 limited to the amount of any deficiency resulting under this
34 Act from the recomputation of the taxpayer's net income,
35 Article 2 credits, or Section 207 loss earned, incurred, or
36 used in the taxable year for which the notification is required

1 after giving effect to the item or items required to be
2 reported.

3 (e) Report of federal change.

4 (1) Before August 13, 1999, in any case where
5 notification of an alteration is given as required by
6 Section 506(b), a notice of deficiency may be issued at any
7 time within 2 years after the date such notification is
8 given, provided, however, that the amount of any proposed
9 assessment set forth in such notice shall be limited to the
10 amount of any deficiency resulting under this Act from
11 recomputation of the taxpayer's net income, net loss, or
12 Article 2 credits for the taxable year after giving effect
13 to the item or items reflected in the reported alteration.

14 (2) On and after August 13, 1999, in any case where
15 notification of an alteration is given as required by
16 Section 506(b), a notice of deficiency may be issued at any
17 time within 2 years after the date such notification is
18 given for the taxable year for which the notification is
19 given or for any taxable year to which the taxpayer may
20 carry an Article 2 credit, or a Section 207 loss, earned,
21 incurred, or used in the year for which the notification is
22 given, provided, however, that the amount of any proposed
23 assessment set forth in such notice shall be limited to the
24 amount of any deficiency resulting under this Act from
25 recomputation of the taxpayer's net income, Article 2
26 credits, or Section 207 loss earned, incurred, or used in
27 the taxable year for which the notification is given after
28 giving effect to the item or items reflected in the
29 reported alteration.

30 (f) Extension by agreement. Where, before the expiration of
31 the time prescribed in this Section for the issuance of a
32 notice of deficiency, both the Department and the taxpayer
33 shall have consented in writing to its issuance after such
34 time, such notice may be issued at any time prior to the
35 expiration of the period agreed upon. In the case of a taxpayer
36 who is a partnership, Subchapter S corporation, or trust and

1 who enters into an agreement with the Department pursuant to
2 this subsection on or after January 1, 2003, a notice of
3 deficiency may be issued to the partners, shareholders, or
4 beneficiaries of the taxpayer at any time prior to the
5 expiration of the period agreed upon. Any proposed assessment
6 set forth in the notice, however, shall be limited to the
7 amount of any deficiency resulting under this Act from
8 recomputation of items of income, deduction, credits, or other
9 amounts of the taxpayer that are taken into account by the
10 partner, shareholder, or beneficiary in computing its
11 liability under this Act. The period so agreed upon may be
12 extended by subsequent agreements in writing made before the
13 expiration of the period previously agreed upon.

14 (g) Erroneous refunds. In any case in which there has been
15 an erroneous refund of tax payable under this Act, a notice of
16 deficiency may be issued at any time within 2 years from the
17 making of such refund, or within 5 years from the making of
18 such refund if it appears that any part of the refund was
19 induced by fraud or the misrepresentation of a material fact,
20 provided, however, that the amount of any proposed assessment
21 set forth in such notice shall be limited to the amount of such
22 erroneous refund.

23 Beginning July 1, 1993, in any case in which there has been
24 a refund of tax payable under this Act attributable to a net
25 loss carryback as provided for in Section 207, and that refund
26 is subsequently determined to be an erroneous refund due to a
27 reduction in the amount of the net loss which was originally
28 carried back, a notice of deficiency for the erroneous refund
29 amount may be issued at any time during the same time period in
30 which a notice of deficiency can be issued on the loss year
31 creating the carryback amount and subsequent erroneous refund.
32 The amount of any proposed assessment set forth in the notice
33 shall be limited to the amount of such erroneous refund.

34 (h) Time return deemed filed. For purposes of this Section
35 a tax return filed before the last day prescribed by law
36 (including any extension thereof) shall be deemed to have been

1 filed on such last day.

2 (i) Request for prompt determination of liability. For
3 purposes of subsection (a)(1), in the case of a tax return
4 required under this Act in respect of a decedent, or by his
5 estate during the period of administration, or by a
6 corporation, the period referred to in such Subsection shall be
7 18 months after a written request for prompt determination of
8 liability is filed with the Department (at such time and in
9 such form and manner as the Department shall by regulations
10 prescribe) by the executor, administrator, or other fiduciary
11 representing the estate of such decedent, or by such
12 corporation, but not more than 3 years after the date the
13 return was filed. This subsection shall not apply in the case
14 of a corporation unless:

15 (1) (A) such written request notifies the Department
16 that the corporation contemplates dissolution at or before
17 the expiration of such 18-month period, (B) the dissolution
18 is begun in good faith before the expiration of such
19 18-month period, and (C) the dissolution is completed;

20 (2) (A) such written request notifies the Department
21 that a dissolution has in good faith been begun, and (B)
22 the dissolution is completed; or

23 (3) a dissolution has been completed at the time such
24 written request is made.

25 (j) Withholding tax. In the case of returns required under
26 Article 7 of this Act (with respect to any amounts withheld as
27 tax or any amounts required to have been withheld as tax) a
28 notice of deficiency shall be issued not later than 3 years
29 after the 15th day of the 4th month following the close of the
30 calendar year in which such withholding was required.

31 (k) Penalties for failure to make information reports. A
32 notice of deficiency for the penalties provided by Subsection
33 1405.1(c) of this Act may not be issued more than 3 years after
34 the due date of the reports with respect to which the penalties
35 are asserted.

36 (l) Penalty for failure to file withholding returns. A

1 notice of deficiency for penalties provided by Section 1004 of
2 this Act for taxpayer's failure to file withholding returns may
3 not be issued more than three years after the 15th day of the
4 4th month following the close of the calendar year in which the
5 withholding giving rise to taxpayer's obligation to file those
6 returns occurred.

7 (m) Transferee liability. A notice of deficiency may be
8 issued to a transferee relative to a liability asserted under
9 Section 1405 during time periods defined as follows:

10 1) Initial Transferee. In the case of the liability of
11 an initial transferee, up to 2 years after the expiration
12 of the period of limitation for assessment against the
13 transferor, except that if a court proceeding for review of
14 the assessment against the transferor has begun, then up to
15 2 years after the return of the certified copy of the
16 judgment in the court proceeding.

17 2) Transferee of Transferee. In the case of the
18 liability of a transferee, up to 2 years after the
19 expiration of the period of limitation for assessment
20 against the preceding transferee, but not more than 3 years
21 after the expiration of the period of limitation for
22 assessment against the initial transferor; except that if,
23 before the expiration of the period of limitation for the
24 assessment of the liability of the transferee, a court
25 proceeding for the collection of the tax or liability in
26 respect thereof has been begun against the initial
27 transferor or the last preceding transferee, as the case
28 may be, then the period of limitation for assessment of the
29 liability of the transferee shall expire 2 years after the
30 return of the certified copy of the judgment in the court
31 proceeding.

32 (n) Notice of decrease in net loss. On and after the
33 effective date of this amendatory Act of the 92nd General
34 Assembly, no notice of deficiency shall be issued as the result
35 of a decrease determined by the Department in the net loss
36 incurred by a taxpayer under Section 207 of this Act unless the

1 Department has notified the taxpayer of the proposed decrease
2 within 3 years after the return reporting the loss was filed or
3 within one year after an amended return reporting an increase
4 in the loss was filed, provided that in the case of an amended
5 return, a decrease proposed by the Department more than 3 years
6 after the original return was filed may not exceed the increase
7 claimed by the taxpayer on the original return.

8 (Source: P.A. 91-541, eff. 8-13-99; 92-846, eff. 8-23-02.)

9 (35 ILCS 5/1001) (from Ch. 120, par. 10-1001)

10 Sec. 1001. Failure to File Tax Returns.

11 (a) Failure to file tax return. In case of failure to file
12 any tax return required under this Act on the date prescribed
13 therefor, (determined with regard to any extensions of time for
14 filing) there shall be added as a penalty the amount prescribed
15 by Section 3-3 of the Uniform Penalty and Interest Act.

16 (b) Failure to disclose reportable transaction. Any
17 taxpayer who fails to comply with the requirements of Section
18 501(b) of this Act shall pay a penalty in the amount determined
19 under this subsection. Such penalty shall be deemed assessed
20 upon the date of filing of the return for the taxable year in
21 which the taxpayer participates in the reportable transaction.
22 A taxpayer shall not be considered to have complied with the
23 requirements of Section 501(b) of this Act unless the
24 disclosure statement filed with the Department includes all of
25 the information required to be disclosed with respect to a
26 reportable transaction pursuant to Treasury Regulations
27 Section 1.6011-4 (26 CFR 1.6011-4) and regulations promulgated
28 by the Department under Section 501(b) of this Act.

29 (1) Amount of penalty. Except as provided in paragraph (2),
30 the amount of the penalty under this subsection shall be
31 \$15,000 for each failure to comply with the requirements of
32 Section 501(b).

33 (2) Increase in penalty for listed transactions. In the
34 case of a failure to comply with the requirements of Section
35 501(b) with respect to a "listed transaction", the penalty

1 under this subsection shall be \$30,000 for each failure.

2 (3) Authority to rescind penalty. The Department may
3 rescind all or any portion of any penalty imposed by this
4 subsection with respect to any violation, if any of the
5 following apply:

6 (A) It is determined that failure to comply did not
7 jeopardize the best interests of the State and is not due
8 to any willful neglect or any intent not to comply;

9 (B) The person on whom the penalty is imposed has a
10 history of complying with the requirements of this Act;

11 (C) It is shown that the violation is due to an
12 unintentional mistake of fact;

13 (D) Imposing the penalty would be against equity and
14 good conscience;

15 (E) Rescinding the penalty would promote compliance
16 with the requirements of this Act and effective tax
17 administration; or

18 (F) The taxpayer can show that there was a reasonable
19 cause for the failure to disclose and that the taxpayer
20 acted in good faith.

21 A determination made under this subparagraph (3) may be
22 reviewed in any administrative or judicial proceeding.

23 (4) Coordination with other penalties. The penalty imposed
24 by this subsection is in addition to any penalty imposed by
25 this Act or the Uniform Penalty and Interest Act. The doubling
26 of penalties and interest authorized by the Illinois Tax
27 Delinquency Amnesty Act (P.A. 93-26) are not applicable to the
28 reportable penalties under subsection (b).

29 (c) The total penalty imposed under subsection (b) of this
30 Section with respect to any taxable year shall not exceed 10%
31 of the increase in net income (or reduction in Illinois net
32 loss under Section 207 of this Act) that would result had the
33 taxpayer not participated in any reportable transaction
34 affecting its net income for such taxable year.

35 (Source: P.A. 87-205.)

1 (35 ILCS 5/1002) (from Ch. 120, par. 10-1002)

2 Sec. 1002. Failure to Pay Tax.

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

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

12 (c) Nonwillful failure to pay withholding tax. If any
13 employer, without intent to evade or defeat any tax imposed by
14 this Act or the payment thereof, shall fail to make a return
15 and pay a tax withheld by him at the time required by or under
16 the provisions of this Act, such employer shall be liable for
17 such taxes and shall pay the same together with the interest
18 and the penalty provided by Sections 3-2 and 3-3, respectively,
19 of the Uniform Penalty and Interest Act and such interest and
20 penalty shall not be charged to or collected from the employee
21 by the employer.

22 (d) Willful failure to collect and pay over tax. Any person
23 required to collect, truthfully account for, and pay over the
24 tax imposed by this Act who willfully fails to collect such tax
25 or truthfully account for and pay over such tax or willfully
26 attempts in any manner to evade or defeat the tax or the
27 payment thereof, shall, in addition to other penalties provided
28 by law, be liable for the penalty imposed by Section 3-7 of the
29 Uniform Penalty and Interest Act.

30 (e) Penalties assessable.

31 (1) In general. Except as otherwise provided in this
32 Act ~~provided in paragraphs (2), (3) and (4)~~, the penalties
33 provided by this Act shall be paid upon notice and demand
34 and shall be assessed, collected, and paid in the same
35 manner as taxes and any reference in this Act to the tax
36 imposed by this Act shall be deemed also to refer to

1 penalties provided by this Act.

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

6 (3) Procedure for assessing the penalty for failure to
7 file withholding returns or annual transmittal forms for
8 wage and tax statements. The penalty imposed by Section
9 1004 will be asserted by the Department's issuance of a
10 notice of deficiency. If taxpayer files a timely protest,
11 the procedures of Section 908 will be followed. If taxpayer
12 does not file a timely protest, the notice of deficiency
13 will constitute an assessment pursuant to subsection (c) of
14 Section 904.

15 (4) Assessment of penalty under Section 1005(b). The
16 penalty imposed under Section 1005(b) shall be deemed
17 assessed upon the assessment of the tax to which such
18 penalty relates and shall be collected and paid on notice
19 and demand in the same manner as the tax.

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

27 (Source: P.A. 89-379, eff. 1-1-96.)

28 (35 ILCS 5/1005) (from Ch. 120, par. 10-1005)

29 Sec. 1005. Penalty for Underpayment of Tax.

30 (a) In general. If any amount of tax required to be shown
31 on a return prescribed by this Act is not paid on or before the
32 date required for filing such return (determined without regard
33 to any extension of time to file), a penalty shall be imposed
34 in the manner and at the rate prescribed by the Uniform Penalty
35 and Interest Act.

1 (b) Reportable transaction penalty. If a taxpayer has a
2 reportable transaction understatement for any taxable year,
3 there shall be added to the tax an amount equal to 20% of the
4 amount of that understatement. This penalty shall be deemed
5 assessed upon the assessment of the tax to which such penalty
6 relates and shall be collected and paid on notice and demand in
7 the same manner as the tax.

8 (1) Reportable transaction understatement. For
9 purposes of this Section, the term "reportable transaction
10 understatement" means the sum of subparagraphs (A) and (B):

11 (A) The product of (i) the amount of the increase
12 (if any) in Illinois net income, as determined by
13 reference to the amount of post-apportioned income
14 that results from a difference between the proper tax
15 treatment of an item to which this subsection applies
16 and the taxpayer's treatment of that item (as shown on
17 the taxpayer's return of tax), including an amended
18 return filed prior to the date the taxpayer is first
19 contacted by the Department regarding the examination
20 of the return, and (ii) the applicable tax rates under
21 Section 201 of this Act.

22 (B) Special rules in the case of carrybacks and
23 carryovers. The penalty for an understatement of
24 income attributable to a reportable transaction
25 applies to any portion of an understatement for a year
26 to which a loss, deduction, or credit is carried that
27 is attributable to a reportable transaction for that
28 year in which the carryback or carryover of the loss,
29 deduction, or credit arises (the "loss or credit
30 year").

31 (2) Items to which subsection applies. This subsection
32 shall apply to any item which is attributable to either of
33 the following: (i) any listed transaction as defined in
34 Treasury Regulations Section 1.6011-4, and (ii) any
35 reportable transaction as defined in Treasury Regulations
36 Section 1.6011-4 (other than a listed transaction) if a

1 significant purpose of the transaction is the avoidance or
2 evasion of federal income tax.

3 (3) Subsection (b) shall be applied by substituting
4 "30%" for "20%" with respect to the portion of any
5 reportable transaction understatement with respect to
6 which the requirements of (4)(B)(i) of this subsection are
7 not met.

8 (4) Reasonable cause exception.

9 (A) In general. No penalty shall be imposed under
10 this subsection with respect to any portion of a
11 reportable transaction understatement if it is shown
12 that there was a reasonable cause for such portion and
13 that the taxpayer acted in good faith with respect to
14 such portion.

15 (B) Special rules. Subparagraph (A) does not apply
16 to any reportable transaction (including listed
17 transaction) unless all of the following requirements
18 are met:

19 (i) The relevant facts affecting the tax
20 treatment of the item are adequately disclosed in
21 accordance with Section 501(b) of this Act. A
22 taxpayer failing to adequately disclose in
23 accordance with Section 501(b) shall be treated as
24 meeting the requirements of this subparagraph (i)
25 if the penalty for that failure was rescinded under
26 Section 1001(b)(3) of this Act;

27 (ii) There is or was substantial authority for
28 such treatment; and

29 (iii) The taxpayer reasonably believed that
30 such treatment was more likely than not the proper
31 treatment.

32 (C) Rules relating to reasonable belief. For
33 purposes of subparagraph (B), a taxpayer shall be
34 treated as having a reasonable belief with respect to
35 the tax treatment of an item only if such belief meets
36 the requirements of this subparagraph (C):

1 (i) Such belief must be based on the facts and
2 law that exist at the time the return of tax that
3 includes that tax treatment is filed;

4 (ii) Such belief must relate solely to the
5 taxpayer's chances of success on the merits of that
6 treatment and does not take into account the
7 possibility that the return will not be audited,
8 that the treatment will not be raised on audit, or
9 that the treatment will be resolved through
10 settlement if it is raised; and

11 (iii) Such belief is not solely based on the
12 opinion of a disqualified tax advisor or on a
13 disqualified opinion.

14 (5) Definitions.

15 (A) Disqualified tax advisor. The term
16 "disqualified tax advisor" is a tax advisor that meets
17 any of the following conditions:

18 (I) Is a material advisor who participates in
19 the organization, management, promotion, or sale
20 of the transaction or who is related (within the
21 meaning of Sections 267(b) or 707(b)(1) of the
22 Internal Revenue Code) to any person who so
23 participates;

24 (II) Is compensated directly or indirectly by
25 a material advisor with respect to the
26 transaction;

27 (III) Has a fee arrangement with respect to the
28 transaction that is contingent on all or part of
29 the intended tax benefits from the transaction
30 being sustained; or

31 (IV) As determined under regulations
32 prescribed by either the Secretary of the Treasury
33 for federal income tax purposes or the Department,
34 has a continuing financial interest with respect
35 to the transaction.

36 (B) Disqualified opinion. The term "disqualified

1 opinion" means an opinion that meets any of the
2 following conditions:

3 (I) Is based on unreasonable factual or legal
4 assumptions (including assumptions as to future
5 events);

6 (II) Unreasonably relies on representations,
7 statements, findings, or agreements of the
8 taxpayer or any other person;

9 (III) Does not identify and consider all
10 relevant facts; or

11 (IV) Fails to meet any other requirement as
12 either the Secretary of the Treasury for federal
13 income tax purposes or the Department may
14 prescribe.

15 (C) Material Advisor. The term "material advisor"
16 shall have substantially the same meaning as the same
17 term is defined under Treasury Regulations Section
18 301.6112-1, (26 CFR 301.6112-1) and shall include any
19 person that is a material advisor for federal income
20 tax purposes under such regulation.

21 (6) Effective date. This subsection shall apply to
22 taxable years ending on and after December 31, 2004, except
23 that a reportable transaction understatement shall include
24 an understatement (as determined under paragraph (1)) with
25 respect to any taxable year for which the limitations
26 period on assessment has not expired as of January 1, 2005
27 that is attributable to a transaction which the taxpayer
28 has entered into after February 28, 2000 and before
29 December 31, 2004 that becomes a listed transaction (as
30 defined in Treasury Regulations Section 1.6011-4(b)(2) at
31 any time.

32 (c) 100% interest penalty. If a taxpayer has been contacted
33 by the Internal Revenue Service or the Department regarding the
34 use of a potential tax avoidance transaction with respect to a
35 taxable year and has a deficiency with respect to such taxable
36 year or years, there shall be added to the tax attributable to

1 the potential tax avoidance transaction (determined as
2 described in subsection (b)(1) of Section 1005) an amount equal
3 to 100% of the interest assessed under the Uniform Penalty and
4 Interest Act (determined without regard to subsection (f) of
5 Section 3-2 of such Act) for the period beginning on the last
6 date prescribed by law for the payment of such tax and ending
7 on the date of the notice of deficiency. Such penalty shall be
8 deemed assessed upon the assessment of the interest to which
9 such penalty relates and shall be collected and paid in the
10 same manner as such interest. The penalty imposed by this
11 subsection is in addition to any penalty imposed by this Act or
12 the Uniform Penalty and Interest Act. For purposes of this
13 subsection and subsection (d) of this Section, the term
14 "potential tax avoidance transaction" means any tax shelter as
15 defined in Section 6111 of the Internal Revenue Code. This
16 subsection shall apply to taxable years ending on and after
17 December 31, 2004, except that the penalty may also be imposed
18 with respect to any taxable year for which the limitations
19 period on assessment has not expired as of January 1, 2005 that
20 is attributable to a transaction in which the taxpayer has
21 entered into after February 28, 2000 and before December 31,
22 2004, which transaction becomes a listed transaction (as
23 defined in Treasury Regulations Section 1.6011-4(b)(2)) at any
24 time.

25 (d) 150% interest rate. For taxable years ending on and
26 after July 1, 2002, for any notice of deficiency issued before
27 the taxpayer is contacted by the Internal Revenue Service or
28 the Department regarding a potential tax avoidance
29 transaction, the taxpayer is subject to interest as provided
30 under Section 3-2 of the Uniform Penalty and Interest Act, but
31 with respect to any deficiency attributable to a potential tax
32 avoidance transaction, the taxpayer is subject to interest at a
33 rate of 150% of the otherwise applicable rate.

34 (e) Coordination with other penalties. Except as provided
35 in regulations, the penalties imposed by this Section are in
36 addition to any other penalty imposed by this Act or the

1 Uniform Penalty and Interest Act. The doubling of penalties and
2 interest authorized by the Illinois Tax Delinquency Amnesty Act
3 (P.A. 93-26), are not applicable to the reportable transaction
4 penalties and interest under subsections (b), (c), and (d).

5 ~~The provisions of this Section shall apply to all taxable~~
6 ~~years ending on or after January 1, 1986.~~

7 (Source: P.A. 87-205.)

8 (35 ILCS 5/1007 new)

9 Sec. 1007. Failure to register tax shelter or maintain
10 list.

11 (a) Penalty Imposed. Any person that fails to comply with
12 the requirements of Section 1405.5 or Section 1405.6 shall
13 incur a penalty as provided in this Section. A person shall not
14 be in compliance with the requirements of Section 1405.5 unless
15 and until the required registration has been filed and contains
16 all of the information required to be included with such
17 registration under Section 6111 of the Internal Revenue Code or
18 such Section 1405.5. A person shall not be in compliance with
19 the requirements of Section 1405.6 unless, at the time the
20 required list is made available to the Department, such list
21 contains all of the information required to be maintained under
22 Section 6112 of the Internal Revenue Code or such Section
23 1405.6.

24 (b) Amount of Penalty. The following penalties apply:

25 (1) In the case of each failure to comply with the
26 requirements of subsection (a), subsection (b), or
27 subsection (e) of Section 1405.5, the penalty shall be
28 \$15,000.

29 (2) If the failure is with respect to a listed
30 transaction under subsection (c) of Section 1405.5, the
31 penalty shall be \$100,000.

32 (3) In the case of each failure to comply with the
33 requirements of subsection (a) or subsection (b) of Section
34 1405.6, the penalty shall be \$15,000.

35 (4) If the failure is with respect to a listed

1 transaction under subsection (c) of Section 1405.6, the
2 penalty shall be \$100,000.

3 (c) Authority to rescind penalty. The Director of the Board
4 of Appeals may rescind all or any portion of any penalty
5 imposed by this Section with respect to any violation, if any
6 of the following apply:

7 (1) It is determined that failure to comply did not
8 jeopardize the best interests of the State and is not due
9 to any willful neglect or any intent not to comply;

10 (2) The person on whom the penalty is imposed has a
11 history of complying with the requirements of this Act;

12 (3) It is shown that the violation is due to an
13 unintentional mistake of fact;

14 (4) Imposing the penalty would be against equity and
15 good conscience;

16 (5) Rescinding the penalty would promote compliance
17 with the requirements of this Act and effective tax
18 administration; or

19 (6) The taxpayer can show that there was reasonable
20 cause for the failure to disclose and that the taxpayer
21 acted in good faith.

22 (d) Coordination with other penalties. The penalty imposed
23 by this Section is in addition to any penalty imposed by this
24 Act or the Uniform Penalty and Interest Act.

25 (35 ILCS 5/1008 new)

26 Sec. 1008. Promoting tax shelters. Except as herein
27 provided, the provisions of Section 6700 of the Internal
28 Revenue Code shall apply for purposes of this Act as if such
29 Section applied to an Illinois deduction, credit, exclusion
30 from income, allocation or apportionment rule, or other
31 Illinois tax benefit. Notwithstanding Section 6700(a) of the
32 Internal Revenue Code, if an activity with respect to which a
33 penalty imposed under Section 6700(a) of the Internal Revenue
34 Code, as applied for purposes of this Act, involves a statement
35 described in Section 6700(a)(2)(A) of the Internal Revenue

1 Code, as applied for purposes of this Act, the amount of the
2 penalty imposed under this Section shall be the greater of
3 \$10,000 or 50% of the gross income received (or to be received)
4 from any person to whom such statement is furnished that is
5 required to file a return under Section 502 of this Act.

6 (35 ILCS 5/1405.5 new)

7 Sec. 1405.5. Registration of tax shelters.

8 (a) Federal tax shelter. Any tax shelter organizer required
9 to register a tax shelter under Section 6111 of the Internal
10 Revenue Code shall send a duplicate of the federal registration
11 information to the Department not later than the day on which
12 registration is required under federal law. Any person required
13 to register under Section 6111 of the Internal Revenue Code who
14 receives a tax registration number from the Secretary of the
15 Treasury shall, within 30 days after request by the Department,
16 file a statement of that registration number.

17 (b) Additional requirements for listed transactions. In
18 addition to the requirements of subsection (a), for any
19 transactions entered into on or after February 28, 2000 that
20 become listed transactions (as defined under Treasury
21 Regulations Section 1.6011-4) at any time, those transactions
22 shall be registered with the Department (in the form and manner
23 prescribed by the Department) by the later of (i) 60 days after
24 entering into the transaction, (ii) 60 days after the
25 transaction becomes a listed transaction, or (iii) December 31,
26 2004.

27 (c) Tax shelters subject to this Section. The provisions of
28 this Section apply to any tax shelter herein described that
29 additionally satisfies any of the following conditions: (1) is
30 organized in this State; (2) is doing business in this State;
31 or (3) is deriving income from sources in this State.

32 (d) Tax shelter identification number. Any person required
33 to file a return under this Act and required to include on the
34 person's federal tax return a tax shelter identification number
35 pursuant to Section 6111 of the Internal Revenue Code shall

1 furnish such number upon filing of the person's Illinois
2 return.

3 (35 ILCS 5/1405.6 new)

4 Sec. 1405.6. Investor lists.

5 (a) Federal abusive tax shelter. Any person required to
6 maintain a list under Section 6112 of the Internal Revenue Code
7 and Treasury Regulations Section 301.6112-1 with respect to a
8 potentially abusive tax shelter shall furnish such list to the
9 Department not later than the time such list is required to be
10 furnished to the Internal Revenue Service under federal income
11 tax law.

12 The list required under this Section shall include the same
13 information required with respect to a potentially abusive tax
14 shelter under Treasury Regulations Section 301.6112-1 and any
15 other information as the Department may require.

16 (b) Additional requirements for listed transactions. For
17 transactions entered into on or after February 28, 2000 that
18 become listed transactions (as defined under Treasury
19 Regulations Section 1.6011-4) at any time, the list shall be
20 furnished to the Department by the later of (i) 60 days after
21 entering into the transaction, (ii) 60 days after the
22 transaction becomes a listed transaction, or (iii) December 31,
23 2004.

24 (d) Tax Shelters subject to this Section. The provisions of
25 this Section apply to any tax shelter herein described that
26 additionally satisfies any of the following conditions:

27 (1) Organized in this State;

28 (2) Doing Business in this State; or

29 (3) Deriving income from sources in this State.

30 ARTICLE 40

31 Section 40-5. The Illinois Income Tax Act is amended by
32 changing Section 201 as follows:

1 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

2 Sec. 201. Tax Imposed.

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

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

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

17 (2) In the case of an individual, trust or estate, for
18 taxable years beginning prior to July 1, 1989 and ending
19 after June 30, 1989, an amount equal to the sum of (i) 2
20 1/2% of the taxpayer's net income for the period prior to
21 July 1, 1989, as calculated under Section 202.3, and (ii)
22 3% of the taxpayer's net income for the period after June
23 30, 1989, as calculated under Section 202.3.

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

28 (4) (Blank).

29 (5) (Blank).

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

33 (7) In the case of a corporation, for taxable years
34 beginning prior to July 1, 1989 and ending after June 30,
35 1989, an amount equal to the sum of (i) 4% of the
36 taxpayer's net income for the period prior to July 1, 1989,

1 as calculated under Section 202.3, and (ii) 4.8% of the
2 taxpayer's net income for the period after June 30, 1989,
3 as calculated under Section 202.3.

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

7 (c) Personal Property Tax Replacement Income Tax.
8 Beginning on July 1, 1979 and thereafter, in addition to such
9 income tax, there is also hereby imposed the Personal Property
10 Tax Replacement Income Tax measured by net income on every
11 corporation (including Subchapter S corporations), partnership
12 and trust, for each taxable year ending after June 30, 1979.
13 Such taxes are imposed on the privilege of earning or receiving
14 income in or as a resident of this State. The Personal Property
15 Tax Replacement Income Tax shall be in addition to the income
16 tax imposed by subsections (a) and (b) of this Section and in
17 addition to all other occupation or privilege taxes imposed by
18 this State or by any municipal corporation or political
19 subdivision thereof.

20 (d) Additional Personal Property Tax Replacement Income
21 Tax Rates. The personal property tax replacement income tax
22 imposed by this subsection and subsection (c) of this Section
23 in the case of a corporation, other than a Subchapter S
24 corporation and except as adjusted by subsection (d-1), shall
25 be an additional amount equal to 2.85% of such taxpayer's net
26 income for the taxable year, except that beginning on January
27 1, 1981, and thereafter, the rate of 2.85% specified in this
28 subsection shall be reduced to 2.5%, and in the case of a
29 partnership, trust or a Subchapter S corporation shall be an
30 additional amount equal to 1.5% of such taxpayer's net income
31 for the taxable year.

32 (d-1) Rate reduction for certain foreign insurers. In the
33 case of a foreign insurer, as defined by Section 35A-5 of the
34 Illinois Insurance Code, whose state or country of domicile
35 imposes on insurers domiciled in Illinois a retaliatory tax
36 (excluding any insurer whose premiums from reinsurance assumed

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

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

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

26 (B) the privilege tax imposed by Section 409 of the
27 Illinois Insurance Code, the fire insurance company
28 tax imposed by Section 12 of the Fire Investigation
29 Act, and the fire department taxes imposed under
30 Section 11-10-1 of the Illinois Municipal Code,
31 equals 1.25% for taxable years ending prior to December 31,
32 2003, or 1.75% for taxable years ending on or after
33 December 31, 2003, of the net taxable premiums written for
34 the taxable year, as described by subsection (1) of Section
35 409 of the Illinois Insurance Code. This paragraph will in
36 no event increase the rates imposed under subsections (b)

1 and (d).

2 (2) Any reduction in the rates of tax imposed by this
3 subsection shall be applied first against the rates imposed
4 by subsection (b) and only after the tax imposed by
5 subsection (a) net of all credits allowed under this
6 Section other than the credit allowed under subsection (i)
7 has been reduced to zero, against the rates imposed by
8 subsection (d).

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

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

14 (1) A taxpayer shall be allowed a credit equal to .5%
15 of the basis of qualified property placed in service during
16 the taxable year, provided such property is placed in
17 service on or after July 1, 1984. There shall be allowed an
18 additional credit equal to .5% of the basis of qualified
19 property placed in service during the taxable year,
20 provided such property is placed in service on or after
21 July 1, 1986, and the taxpayer's base employment within
22 Illinois has increased by 1% or more over the preceding
23 year as determined by the taxpayer's employment records
24 filed with the Illinois Department of Employment Security.
25 Taxpayers who are new to Illinois shall be deemed to have
26 met the 1% growth in base employment for the first year in
27 which they file employment records with the Illinois
28 Department of Employment Security. The provisions added to
29 this Section by Public Act 85-1200 (and restored by Public
30 Act 87-895) shall be construed as declaratory of existing
31 law and not as a new enactment. If, in any year, the
32 increase in base employment within Illinois over the
33 preceding year is less than 1%, the additional credit shall
34 be limited to that percentage times a fraction, the
35 numerator of which is .5% and the denominator of which is
36 1%, but shall not exceed .5%. The investment credit shall

1 not be allowed to the extent that it would reduce a
2 taxpayer's liability in any tax year below zero, nor may
3 any credit for qualified property be allowed for any year
4 other than the year in which the property was placed in
5 service in Illinois. For tax years ending on or after
6 December 31, 1987, and on or before December 31, 1988, the
7 credit shall be allowed for the tax year in which the
8 property is placed in service, or, if the amount of the
9 credit exceeds the tax liability for that year, whether it
10 exceeds the original liability or the liability as later
11 amended, such excess may be carried forward and applied to
12 the tax liability of the 5 taxable years following the
13 excess credit years if the taxpayer (i) makes investments
14 which cause the creation of a minimum of 2,000 full-time
15 equivalent jobs in Illinois, (ii) is located in an
16 enterprise zone established pursuant to the Illinois
17 Enterprise Zone Act and (iii) is certified by the
18 Department of Commerce and Community Affairs (now
19 Department of Commerce and Economic Opportunity) as
20 complying with the requirements specified in clause (i) and
21 (ii) by July 1, 1986. The Department of Commerce and
22 Community Affairs (now Department of Commerce and Economic
23 Opportunity) shall notify the Department of Revenue of all
24 such certifications immediately. For tax years ending
25 after December 31, 1988, the credit shall be allowed for
26 the tax year in which the property is placed in service,
27 or, if the amount of the credit exceeds the tax liability
28 for that year, whether it exceeds the original liability or
29 the liability as later amended, such excess may be carried
30 forward and applied to the tax liability of the 5 taxable
31 years following the excess credit years. The credit shall
32 be applied to the earliest year for which there is a
33 liability. If there is credit from more than one tax year
34 that is available to offset a liability, earlier credit
35 shall be applied first.

36 (2) The term "qualified property" means property

1 which:

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

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

14 (C) is acquired by purchase as defined in Section
15 179(d) of the Internal Revenue Code;

16 (D) is used in Illinois by a taxpayer who is
17 primarily engaged in manufacturing, or in mining coal
18 or fluorite, or in retailing; and

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

23 (3) For purposes of this subsection (e),
24 "manufacturing" means the material staging and production
25 of tangible personal property by procedures commonly
26 regarded as manufacturing, processing, fabrication, or
27 assembling which changes some existing material into new
28 shapes, new qualities, or new combinations. For purposes of
29 this subsection (e) the term "mining" shall have the same
30 meaning as the term "mining" in Section 613(c) of the
31 Internal Revenue Code. For purposes of this subsection (e),
32 the term "retailing" means the sale of tangible personal
33 property or services rendered in conjunction with the sale
34 of tangible consumer goods or commodities.

35 (4) The basis of qualified property shall be the basis
36 used to compute the depreciation deduction for federal

1 income tax purposes.

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

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

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

25 (8) Unless the investment credit is extended by law,
26 the basis of qualified property shall not include costs
27 incurred after December 31, 2003, except for costs incurred
28 pursuant to a binding contract entered into on or before
29 December 31, 2003.

30 (9) Each taxable year ending before December 31, 2000,
31 a partnership may elect to pass through to its partners the
32 credits to which the partnership is entitled under this
33 subsection (e) for the taxable year. A partner may use the
34 credit allocated to him or her under this paragraph only
35 against the tax imposed in subsections (c) and (d) of this
36 Section. If the partnership makes that election, those

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

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

24 (f) Investment credit; Enterprise Zone.

25 (1) A taxpayer shall be allowed a credit against the
26 tax imposed by subsections (a) and (b) of this Section for
27 investment in qualified property which is placed in service
28 in an Enterprise Zone created pursuant to the Illinois
29 Enterprise Zone Act. For partners, shareholders of
30 Subchapter S corporations, and owners of limited liability
31 companies, if the liability company is treated as a
32 partnership for purposes of federal and State income
33 taxation, there shall be allowed a credit under this
34 subsection (f) to be determined in accordance with the
35 determination of income and distributive share of income
36 under Sections 702 and 704 and Subchapter S of the Internal

1 Revenue Code. The credit shall be .5% of the basis for such
2 property. The credit shall be available only in the taxable
3 year in which the property is placed in service in the
4 Enterprise Zone and shall not be allowed to the extent that
5 it would reduce a taxpayer's liability for the tax imposed
6 by subsections (a) and (b) of this Section to below zero.
7 For tax years ending on or after December 31, 1985, the
8 credit shall be allowed for the tax year in which the
9 property is placed in service, or, if the amount of the
10 credit exceeds the tax liability for that year, whether it
11 exceeds the original liability or the liability as later
12 amended, such excess may be carried forward and applied to
13 the tax liability of the 5 taxable years following the
14 excess credit year. The credit shall be applied to the
15 earliest year for which there is a liability. If there is
16 credit from more than one tax year that is available to
17 offset a liability, the credit accruing first in time shall
18 be applied first.

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

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

22 (B) is depreciable pursuant to Section 167 of the
23 Internal Revenue Code, except that "3-year property"
24 as defined in Section 168(c)(2)(A) of that Code is not
25 eligible for the credit provided by this subsection
26 (f);

27 (C) is acquired by purchase as defined in Section
28 179(d) of the Internal Revenue Code;

29 (D) is used in the Enterprise Zone by the taxpayer;
30 and

31 (E) has not been previously used in Illinois in
32 such a manner and by such a person as would qualify for
33 the credit provided by this subsection (f) or
34 subsection (e).

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

1 income tax purposes.

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

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

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

26 (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade
27 Zone or Sub-Zone.

28 (1) A taxpayer conducting a trade or business in an
29 enterprise zone or a High Impact Business designated by the
30 Department of Commerce and Economic Opportunity Community
31 ~~Affairs~~ conducting a trade or business in a federally
32 designated Foreign Trade Zone or Sub-Zone shall be allowed
33 a credit against the tax imposed by subsections (a) and (b)
34 of this Section in the amount of \$500 per eligible employee
35 hired to work in the zone during the taxable year.

36 (2) To qualify for the credit:

1 (A) the taxpayer must hire 5 or more eligible
2 employees to work in an enterprise zone or federally
3 designated Foreign Trade Zone or Sub-Zone during the
4 taxable year;

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

13 (C) the eligible employees must be employed 180
14 consecutive days in order to be deemed hired for
15 purposes of this subsection.

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

17 (A) Certified by the Department of Commerce and
18 Economic Opportunity ~~Community Affairs~~ as "eligible
19 for services" pursuant to regulations promulgated in
20 accordance with Title II of the Job Training
21 Partnership Act, Training Services for the
22 Disadvantaged or Title III of the Job Training
23 Partnership Act, Employment and Training Assistance
24 for Dislocated Workers Program.

25 (B) Hired after the enterprise zone or federally
26 designated Foreign Trade Zone or Sub-Zone was
27 designated or the trade or business was located in that
28 zone, whichever is later.

29 (C) Employed in the enterprise zone or Foreign
30 Trade Zone or Sub-Zone. An employee is employed in an
31 enterprise zone or federally designated Foreign Trade
32 Zone or Sub-Zone if his services are rendered there or
33 it is the base of operations for the services
34 performed.

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

1 (4) For tax years ending on or after December 31, 1985
2 and prior to December 31, 1988, the credit shall be allowed
3 for the tax year in which the eligible employees are hired.
4 For tax years ending on or after December 31, 1988, the
5 credit shall be allowed for the tax year immediately
6 following the tax year in which the eligible employees are
7 hired. If the amount of the credit exceeds the tax
8 liability for that year, whether it exceeds the original
9 liability or the liability as later amended, such excess
10 may be carried forward and applied to the tax liability of
11 the 5 taxable years following the excess credit year. The
12 credit shall be applied to the earliest year for which
13 there is a liability. If there is credit from more than one
14 tax year that is available to offset a liability, earlier
15 credit shall be applied first.

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

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

21 (h) Investment credit; High Impact Business.

22 (1) Subject to subsections (b) and (b-5) of Section 5.5
23 of the Illinois Enterprise Zone Act, a taxpayer shall be
24 allowed a credit against the tax imposed by subsections (a)
25 and (b) of this Section for investment in qualified
26 property which is placed in service by a Department of
27 Commerce and Economic Opportunity ~~Community Affairs~~
28 designated High Impact Business. The credit shall be .5% of
29 the basis for such property. The credit shall not be
30 available (i) until the minimum investments in qualified
31 property set forth in subdivision (a)(3)(A) of Section 5.5
32 of the Illinois Enterprise Zone Act have been satisfied or
33 (ii) until the time authorized in subsection (b-5) of the
34 Illinois Enterprise Zone Act for entities designated as
35 High Impact Businesses under subdivisions (a)(3)(B),
36 (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois

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

26 Changes made in this subdivision (h) (1) by Public Act
27 88-670 restore changes made by Public Act 85-1182 and
28 reflect existing law.

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

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

32 (B) is depreciable pursuant to Section 167 of the
33 Internal Revenue Code, except that "3-year property"
34 as defined in Section 168(c) (2) (A) of that Code is not
35 eligible for the credit provided by this subsection
36 (h);

1 (C) is acquired by purchase as defined in Section
2 179(d) of the Internal Revenue Code; and

3 (D) is not eligible for the Enterprise Zone
4 Investment Credit provided by subsection (f) of this
5 Section.

6 (3) The basis of qualified property shall be the basis
7 used to compute the depreciation deduction for federal
8 income tax purposes.

9 (4) If the basis of the property for federal income tax
10 depreciation purposes is increased after it has been placed
11 in service in a federally designated Foreign Trade Zone or
12 Sub-Zone located in Illinois by the taxpayer, the amount of
13 such increase shall be deemed property placed in service on
14 the date of such increase in basis.

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

17 (6) If during any taxable year ending on or before
18 December 31, 1996, any property ceases to be qualified
19 property in the hands of the taxpayer within 48 months
20 after being placed in service, or the situs of any
21 qualified property is moved outside Illinois within 48
22 months after being placed in service, the tax imposed under
23 subsections (a) and (b) of this Section for such taxable
24 year shall be increased. Such increase shall be determined
25 by (i) recomputing the investment credit which would have
26 been allowed for the year in which credit for such property
27 was originally allowed by eliminating such property from
28 such computation, and (ii) subtracting such recomputed
29 credit from the amount of credit previously allowed. For
30 the purposes of this paragraph (6), a reduction of the
31 basis of qualified property resulting from a
32 redetermination of the purchase price shall be deemed a
33 disposition of qualified property to the extent of such
34 reduction.

35 (7) Beginning with tax years ending after December 31,
36 1996, if a taxpayer qualifies for the credit under this

1 subsection (h) and thereby is granted a tax abatement and
2 the taxpayer relocates its entire facility in violation of
3 the explicit terms and length of the contract under Section
4 18-183 of the Property Tax Code, the tax imposed under
5 subsections (a) and (b) of this Section shall be increased
6 for the taxable year in which the taxpayer relocated its
7 facility by an amount equal to the amount of credit
8 received by the taxpayer under this subsection (h).

9 (i) Credit for Personal Property Tax Replacement Income
10 Tax. For tax years ending prior to December 31, 2003, a credit
11 shall be allowed against the tax imposed by subsections (a) and
12 (b) of this Section for the tax imposed by subsections (c) and
13 (d) of this Section. This credit shall be computed by
14 multiplying the tax imposed by subsections (c) and (d) of this
15 Section by a fraction, the numerator of which is base income
16 allocable to Illinois and the denominator of which is Illinois
17 base income, and further multiplying the product by the tax
18 rate imposed by subsections (a) and (b) of this Section.

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

33 If, during any taxable year ending on or after December 31,
34 1986, the tax imposed by subsections (c) and (d) of this
35 Section for which a taxpayer has claimed a credit under this
36 subsection (i) is reduced, the amount of credit for such tax

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

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

26 Any credit allowed under this subsection which is unused in
27 the year the credit is earned may be carried forward to each of
28 the 5 taxable years following the year for which the credit is
29 first computed until it is used. This credit shall be applied
30 first to the earliest year for which there is a liability. If
31 there is a credit under this subsection from more than one tax
32 year that is available to offset a liability the earliest
33 credit arising under this subsection shall be applied first. No
34 carryforward credit may be claimed in any tax year ending on or
35 after December 31, 2003.

36 (k) Research and development credit.

1 For tax years ending after July 1, 1990 and prior to
2 December 31, 2003, and beginning again for tax years ending on
3 or after December 31, 2004, a taxpayer shall be allowed a
4 credit against the tax imposed by subsections (a) and (b) of
5 this Section for increasing research activities in this State.
6 The credit allowed against the tax imposed by subsections (a)
7 and (b) shall be equal to 6 1/2% of the qualifying expenditures
8 for increasing research activities in this State. For partners,
9 shareholders of subchapter S corporations, and owners of
10 limited liability companies, if the liability company is
11 treated as a partnership for purposes of federal and State
12 income taxation, there shall be allowed a credit under this
13 subsection to be determined in accordance with the
14 determination of income and distributive share of income under
15 Sections 702 and 704 and subchapter S of the Internal Revenue
16 Code.

17 For purposes of this subsection, "qualifying expenditures"
18 means the qualifying expenditures as defined for the federal
19 credit for increasing research activities which would be
20 allowable under Section 41 of the Internal Revenue Code and
21 which are conducted in this State, "qualifying expenditures for
22 increasing research activities in this State" means the excess
23 of qualifying expenditures for the taxable year in which
24 incurred over qualifying expenditures for the base period,
25 "qualifying expenditures for the base period" means the average
26 of the qualifying expenditures for each year in the base
27 period, and "base period" means the 3 taxable years immediately
28 preceding the taxable year for which the determination is being
29 made.

30 Any credit in excess of the tax liability for the taxable
31 year may be carried forward. A taxpayer may elect to have the
32 unused credit shown on its final completed return carried over
33 as a credit against the tax liability for the following 5
34 taxable years or until it has been fully used, whichever occurs
35 first; provided that no credit earned in a tax year ending
36 prior to December 31, 2003 may be carried forward to any year

1 ~~ending on or after December 31, 2003. , provided that no credit~~
2 ~~may be carried forward to any year ending on or after December~~
3 ~~31, 2003.~~

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

16 No inference shall be drawn from this amendatory Act of the
17 91st General Assembly in construing this Section for taxable
18 years beginning before January 1, 1999.

19 (1) Environmental Remediation Tax Credit.

20 (i) For tax years ending after December 31, 1997 and on
21 or before December 31, 2001, a taxpayer shall be allowed a
22 credit against the tax imposed by subsections (a) and (b)
23 of this Section for certain amounts paid for unreimbursed
24 eligible remediation costs, as specified in this
25 subsection. For purposes of this Section, "unreimbursed
26 eligible remediation costs" means costs approved by the
27 Illinois Environmental Protection Agency ("Agency") under
28 Section 58.14 of the Environmental Protection Act that were
29 paid in performing environmental remediation at a site for
30 which a No Further Remediation Letter was issued by the
31 Agency and recorded under Section 58.10 of the
32 Environmental Protection Act. The credit must be claimed
33 for the taxable year in which Agency approval of the
34 eligible remediation costs is granted. The credit is not
35 available to any taxpayer if the taxpayer or any related
36 party caused or contributed to, in any material respect, a

1 release of regulated substances on, in, or under the site
2 that was identified and addressed by the remedial action
3 pursuant to the Site Remediation Program of the
4 Environmental Protection Act. After the Pollution Control
5 Board rules are adopted pursuant to the Illinois
6 Administrative Procedure Act for the administration and
7 enforcement of Section 58.9 of the Environmental
8 Protection Act, determinations as to credit availability
9 for purposes of this Section shall be made consistent with
10 those rules. For purposes of this Section, "taxpayer"
11 includes a person whose tax attributes the taxpayer has
12 succeeded to under Section 381 of the Internal Revenue Code
13 and "related party" includes the persons disallowed a
14 deduction for losses by paragraphs (b), (c), and (f)(1) of
15 Section 267 of the Internal Revenue Code by virtue of being
16 a related taxpayer, as well as any of its partners. The
17 credit allowed against the tax imposed by subsections (a)
18 and (b) shall be equal to 25% of the unreimbursed eligible
19 remediation costs in excess of \$100,000 per site, except
20 that the \$100,000 threshold shall not apply to any site
21 contained in an enterprise zone as determined by the
22 Department of Commerce and Community Affairs (now
23 Department of Commerce and Economic Opportunity). The
24 total credit allowed shall not exceed \$40,000 per year with
25 a maximum total of \$150,000 per site. For partners and
26 shareholders of subchapter S corporations, there shall be
27 allowed a credit under this subsection to be determined in
28 accordance with the determination of income and
29 distributive share of income under Sections 702 and 704 and
30 subchapter S of the Internal Revenue Code.

31 (ii) A credit allowed under this subsection that is
32 unused in the year the credit is earned may be carried
33 forward to each of the 5 taxable years following the year
34 for which the credit is first earned until it is used. The
35 term "unused credit" does not include any amounts of
36 unreimbursed eligible remediation costs in excess of the

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

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

23 (m) Education expense credit. Beginning with tax years
24 ending after December 31, 1999, a taxpayer who is the custodian
25 of one or more qualifying pupils shall be allowed a credit
26 against the tax imposed by subsections (a) and (b) of this
27 Section for qualified education expenses incurred on behalf of
28 the qualifying pupils. The credit shall be equal to 25% of
29 qualified education expenses, but in no event may the total
30 credit under this subsection claimed by a family that is the
31 custodian of qualifying pupils exceed \$500. In no event shall a
32 credit under this subsection reduce the taxpayer's liability
33 under this Act to less than zero. This subsection is exempt
34 from the provisions of Section 250 of this Act.

35 For purposes of this subsection:

36 "Qualifying pupils" means individuals who (i) are

1 residents of the State of Illinois, (ii) are under the age of
2 21 at the close of the school year for which a credit is
3 sought, and (iii) during the school year for which a credit is
4 sought were full-time pupils enrolled in a kindergarten through
5 twelfth grade education program at any school, as defined in
6 this subsection.

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

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

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

21 (Source: P.A. 92-12, eff. 7-1-01; 92-16, eff. 6-28-01; 92-651,
22 eff. 7-11-02; 92-846, eff. 8-23-02; 93-29, eff. 6-20-03;
23 revised 12-6-03.)

24 ARTICLE 45

25 Section 45-5. The Environmental Protection Act is amended
26 by changing Sections 12.5 as follows:

27 (415 ILCS 5/12.5)

28 Sec. 12.5. NPDES discharge fees; sludge permit fees.

29 (a) Beginning July 1, 2003, the Agency shall assess and
30 collect annual fees (i) in the amounts set forth in subsection
31 (e) for all discharges that require an NPDES permit under
32 subsection (f) of Section 12, from each person holding an NPDES
33 permit authorizing those discharges (including a person who

1 continues to discharge under an expired permit pending
2 renewal), and (ii) in the amounts set forth in subsection (f)
3 of this Section for all activities that require a permit under
4 subsection (b) of Section 12, from each person holding a
5 domestic sewage sludge generator or user permit.

6 Each person subject to this Section must remit the
7 applicable annual fee to the Agency in accordance with the
8 requirements set forth in this Section and any rules adopted
9 pursuant to this Section.

10 (b) Within 30 days after the effective date of this
11 Section, and ~~by May 31 of~~ each year thereafter, the Agency
12 shall send a fee notice by mail to each existing permittee
13 subject to a fee under this Section at his or her address of
14 record. The notice shall state the amount of the applicable
15 annual fee and the date by which payment is required.

16 Except as provided in subsection (c) with respect to
17 initial fees under new permits and certain modifications of
18 existing permits, fees payable under this Section ~~for the 12~~
19 ~~months beginning July 1, 2003~~ are due by the date specified in
20 the fee notice, which shall be no less than 30 days after the
21 date the fee notice is mailed by the Agency, ~~and fees payable~~
22 ~~under this Section for subsequent years shall be due on July 1~~
23 ~~or as otherwise required in any rules that may be adopted~~
24 ~~pursuant to this Section.~~

25 (c) The initial annual fee for discharges under a new
26 individual NPDES permit or for activity under a new individual
27 sludge generator or sludge user permit must be remitted to the
28 Agency prior to the issuance of the permit. The Agency shall
29 provide notice of the amount of the fee to the applicant during
30 its review of the application. In the case of a new individual
31 NPDES or sludge permit issued during the months of January
32 through June, the Agency may prorate the initial annual fee
33 payable under this Section.

34 The initial annual fee for discharges or other activity
35 under a general NPDES permit must be remitted to the Agency as
36 part of the application for coverage under that general permit.

1 If a requested modification to an existing NPDES permit
2 causes a change in the applicable fee categories under
3 subsection (e) that results in an increase in the required fee,
4 the permittee must pay to the Agency the amount of the
5 increase, prorated for the number of months remaining before
6 the next July 1, before the modification is granted.

7 (d) Failure to submit the fee required under this Section
8 by the due date constitutes a violation of this Section. Late
9 payments shall incur an interest penalty, calculated at the
10 rate in effect from time to time for tax delinquencies under
11 subsection (a) of Section 1003 of the Illinois Income Tax Act,
12 from the date the fee is due until the date the fee payment is
13 received by the Agency.

14 (e) The annual fees applicable to discharges under NPDES
15 permits are as follows:

16 (1) For NPDES permits for publicly owned treatment
17 works, other facilities for which the wastewater being
18 treated and discharged is primarily domestic sewage, and
19 wastewater discharges from the operation of public water
20 supply treatment facilities, the fee is:

21 (i) \$1,500 for the 12 months beginning July 1, 2003
22 and \$500 for each subsequent year, for facilities with
23 a Design Average Flow rate of less than 100,000 gallons
24 per day;

25 (ii) \$5,000 for the 12 months beginning July 1,
26 2003 and \$2,500 for each subsequent year, for
27 facilities with a Design Average Flow rate of at least
28 100,000 gallons per day but less than 500,000 gallons
29 per day;

30 (iii) \$7,500 for facilities with a Design Average
31 Flow rate of at least 500,000 gallons per day but less
32 than 1,000,000 gallons per day;

33 (iv) \$15,000 for facilities with a Design Average
34 Flow rate of at least 1,000,000 gallons per day but
35 less than 5,000,000 gallons per day;

36 (v) \$30,000 for facilities with a Design Average

1 Flow rate of at least 5,000,000 gallons per day but
2 less than 10,000,000 gallons per day; and

3 (vi) \$50,000 for facilities with a Design Average
4 Flow rate of 10,000,000 gallons per day or more.

5 (2) For NPDES permits for treatment works or sewer
6 collection systems that include combined sewer overflow
7 outfalls, the fee is:

8 (i) \$1,000 for systems serving a tributary
9 population of 10,000 or less;

10 (ii) \$5,000 for systems serving a tributary
11 population that is greater than 10,000 but not more
12 than 25,000; and

13 (iii) \$20,000 for systems serving a tributary
14 population that is greater than 25,000.

15 The fee amounts in this subdivision (e)(2) are in
16 addition to the fees stated in subdivision (e)(1) when the
17 combined sewer overflow outfall is contained within a
18 permit subject to subsection (e)(1) fees.

19 (3) For NPDES permits for mines producing coal, the fee
20 is \$5,000.

21 (4) For NPDES permits for mines other than mines
22 producing coal, the fee is \$5,000.

23 (5) For NPDES permits for industrial activity where
24 toxic substances are not regulated, other than permits
25 covered under subdivision (e)(3) or (e)(4), the fee is:

26 (i) \$1,000 for a facility with a Design Average
27 Flow rate that is not more than 10,000 gallons per day;

28 (ii) \$2,500 for a facility with a Design Average
29 Flow rate that is more than 10,000 gallons per day but
30 not more than 100,000 gallons per day; and

31 (iii) \$10,000 for a facility with a Design Average
32 Flow rate that is more than 100,000 gallons per day.

33 (6) For NPDES permits for industrial activity where
34 toxic substances are regulated, other than permits covered
35 under subdivision (e)(3) or (e)(4), the fee is:

36 (i) \$15,000 for a facility with a Design Average

1 Flow rate that is not more than 250,000 gallons per
2 day; and

3 (ii) \$20,000 for a facility with a Design Average
4 Flow rate that is more than 250,000 gallons per day.

5 (7) For NPDES permits for industrial activity
6 classified by USEPA as a major discharge, other than
7 permits covered under subdivision (e) (3) or (e) (4), the fee
8 is:

9 (i) \$30,000 for a facility where toxic substances
10 are not regulated; and

11 (ii) \$50,000 for a facility where toxic substances
12 are regulated.

13 (8) For NPDES permits for municipal separate storm
14 sewer systems, the fee is \$1,000.

15 (9) For NPDES permits for construction site or
16 industrial storm water, the fee is \$500.

17 (f) The annual fee for activities under a permit that
18 authorizes applying sludge on land is \$2,500 for a sludge
19 generator permit and \$5,000 for a sludge user permit.

20 (g) More than one of the annual fees specified in
21 subsections (e) and (f) may be applicable to a permit holder.
22 These fees are in addition to any other fees required under
23 this Act.

24 (h) The fees imposed under this Section do not apply to the
25 State or any department or agency of the State, nor to any
26 school district, or to any private sewage disposal system as
27 defined in the Private Sewage Disposal Licensing Act (225 ILCS
28 225/).

29 (i) The Agency may adopt rules to administer the fee
30 program established in this Section. The Agency may include
31 provisions pertaining to invoices, notice of late payment, and
32 disputes concerning the amount or timeliness of payment. The
33 Agency may set forth procedures and criteria for the acceptance
34 of payments. The absence of such rules does not affect the duty
35 of the Agency to immediately begin the assessment and
36 collection of fees under this Section.

1 (j) All fees and interest penalties collected by the Agency
2 under this Section shall be deposited into the Illinois Clean
3 Water Fund, which is hereby created as a special fund in the
4 State treasury. Gifts, supplemental environmental project
5 funds, and grants may be deposited into the Fund. Investment
6 earnings on moneys held in the Fund shall be credited to the
7 Fund.

8 Subject to appropriation, the moneys in the Fund shall be
9 used by the Agency to carry out the Agency's clean water
10 activities.

11 (k) Except as provided in subsection (l), fees ~~Fees~~ paid to
12 the Agency under this Section are not refundable.

13 (l) The Agency may refund the difference between (a) the
14 amount paid by any person under subsection (e)(1)(i) or
15 (e)(1)(ii) of this Section for the 12 months beginning July 1,
16 2004 and (b) the amount due under subsection (e)(1)(i) or
17 (e)(1)(ii) as established by this amendatory Act of the 93rd
18 General Assembly.

19 (Source: P.A. 93-32, eff. 7-1-03.)

20 ARTICLE 50

21 Section 50-5. The Film Production Services Tax Credit Act
22 is amended by changing Section 90 as follows:

23 (35 ILCS 15/90)

24 (Section scheduled to be repealed on January 1, 2005)

25 Sec. 90. Repeal. This Act is repealed 2 years ~~1 year~~ after
26 its effective date.

27 (Source: P.A. 93-543, eff. 1-1-04.)

28 ARTICLE 99

29 Section 99-99. Effective date. This Act takes effect upon
30 becoming law.