



Rep. Michael J. Zalewski

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1 AMENDMENT TO HOUSE BILL 5866

2 AMENDMENT NO. _____. Amend House Bill 5866 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-380 as follows:

7 (20 ILCS 2505/2505-380) (was 20 ILCS 2505/39b47)

8 Sec. 2505-380. Revocation of or refusal to issue a
9 certificate of registration, permit, or license. The
10 Department has the power to refuse to issue or, after notice
11 and an opportunity for a hearing, to revoke a certificate of
12 registration, permit, or license issued or authorized to be
13 issued by the Department if the applicant for or holder of the
14 certificate of registration, permit, or license fails to file a
15 return, or to pay the tax, fee, penalty, or interest shown in a
16 filed return, or to pay any final assessment of tax, fee,

1 penalty, or interest, as required by the tax or fee Act under
2 which the certificate of registration, permit, or license is
3 required or any other tax or fee Act administered by the
4 Department. The Department may refuse to issue, or after notice
5 and an opportunity for a hearing, may revoke a certificate of
6 registration, permit, or license issued or authorized to be
7 issued by the Department if the owner, any partner, or a
8 corporate officer, and in the case of a limited liability
9 company, any manager or member, of the applicant for or holder
10 of the certificate of registration, permit or license, is or
11 has been the owner, a partner, a corporate officer, and in the
12 case of a limited liability company, a manager or member, of a
13 person that is in default for moneys due to the Department
14 under the tax or fee Act upon which the certificate of
15 registration, permit, or license is required or any other tax
16 or fee Act administered by the Department. For purposes of this
17 Section, "person" means any natural individual, firm,
18 partnership, association, joint stock company, joint
19 adventure, public or private corporation, limited liability
20 company, or a receiver, executor, trustee, guardian or other
21 representative appointed by order of any court.

22 The procedure for notice and hearing prior to revocation
23 shall be as provided under the Act pursuant to which the
24 certificate of registration, permit, or license was issued.

25 (Source: P.A. 91-239, eff. 1-1-00.)

1 Section 10. The State Finance Act is amended by changing
2 Section 13.3 as follows:

3 (30 ILCS 105/13.3) (from Ch. 127, par. 149.3)

4 Sec. 13.3. Petty cash funds; purchasing cards.

5 (a) Any State agency may establish and maintain petty cash
6 funds for the purpose of making change, purchasing items of
7 small cost, payment of postage due, and for other nominal
8 expenditures which cannot be administered economically and
9 efficiently through customary procurement practices.

10 Petty cash funds may be established and maintained from
11 moneys which are appropriated to the agency for Contractual
12 Services. In the case of an agency which receives a single
13 appropriation for its ordinary and contingent expenses, the
14 agency may establish a petty cash fund from the appropriated
15 funds.

16 Before the establishment of any petty cash fund, the agency
17 shall submit to the State Comptroller a survey of the need for
18 the fund. The survey shall also establish that sufficient
19 internal accounting controls exist. The Comptroller shall
20 investigate such need and if he determines that it exists and
21 that adequate accounting controls exist, shall approve the
22 establishment of the fund. The Comptroller shall have the power
23 to revoke any approval previously made under this Section.

24 Petty cash funds established under this Section shall be
25 operated and maintained on the imprest system and no fund shall

1 exceed \$1,000, except that the Department of Revenue may
2 maintain a fund not exceeding \$2,000 for each Department of
3 Revenue facility and the Secretary of State may maintain a fund
4 of not exceeding \$2,000 for each Chicago Motor Vehicle
5 Facility, each Springfield Public Service Facility, and the
6 Motor Vehicle Facilities in Champaign, Decatur, Marion,
7 Naperville, Peoria, Rockford, Granite City, Quincy, and
8 Carbondale, to be used solely for the purpose of making change.
9 Except for purchases made by procurement card as provided in
10 subsection (b) of this Section, single transactions shall be
11 limited to amounts less than \$50, and all transactions
12 occurring in the fund shall be reported and accounted for as
13 may be provided in the uniform accounting system developed by
14 the State Comptroller and the rules and regulations
15 implementing that accounting system. All amounts in any such
16 fund of less than \$1,000 but over \$100 shall be kept in a
17 checking account in a bank, or savings and loan association or
18 trust company which is insured by the United States government
19 or any agency of the United States government, except that in
20 funds maintained in each Department of Revenue Facility,
21 Chicago Motor Vehicle Facilities, each Springfield Public
22 Service Facility, and the Motor Vehicle Facilities in
23 Champaign, Decatur, Marion, Naperville, Peoria, Rockford,
24 Granite City, Quincy, and Carbondale, all amounts in the fund
25 may be retained on the premises of such facilities.

26 No bank or savings and loan association shall receive

1 public funds as permitted by this Section, unless it has
2 complied with the requirements established pursuant to Section
3 6 of "An Act relating to certain investments of public funds by
4 public agencies", approved July 23, 1943, as now or hereafter
5 amended.

6 An internal audit shall be performed of any petty cash fund
7 which receives reimbursements of more than \$5,000 in a fiscal
8 year.

9 Upon succession in the custodianship of any petty cash
10 fund, both the former and successor custodians shall sign a
11 statement, in triplicate, showing the exact status of the fund
12 at the time of the transfer. The original copy shall be kept on
13 file in the office wherein the fund exists, and each signer
14 shall be entitled to retain one copy.

15 (b) The Comptroller may provide by rule for the use of
16 purchasing cards by State agencies to pay for purchases that
17 otherwise may be paid out of the agency's petty cash fund. Any
18 rule adopted hereunder shall impose a single transaction limit,
19 which shall not be greater than \$500.

20 The rules of the Comptroller may include but shall not be
21 limited to:

22 (1) standards for the issuance of purchasing cards to
23 State agencies based upon the best interests of the State;

24 (2) procedures for recording purchasing card
25 transactions within the State accounting system, which may
26 provide for summary reporting;

1 (3) procedures for auditing purchasing card
2 transactions on a post-payment basis;

3 (4) standards for awarding contracts with a purchasing
4 card vendor to acquire purchasing cards for use by State
5 agencies; and

6 (5) procedures for the Comptroller to charge against
7 State agency appropriations for payment of purchasing card
8 expenditures without the use of the voucher and warrant
9 system.

10 (c) As used in this Section, "State agency" means any
11 department, officer, authority, public corporation,
12 quasi-public corporation, commission, board, institution,
13 State college or university, or other public agency created by
14 the State, other than units of local government and school
15 districts.

16 (Source: P.A. 90-33, eff. 6-27-97; 91-704, eff. 7-1-00.)

17 Section 15. The Illinois Income Tax Act is amended by
18 changing Sections 303, 304, 701, 710, and 905 as follows:

19 (35 ILCS 5/303) (from Ch. 120, par. 3-303)

20 Sec. 303. (a) In general. Any item of capital gain or loss,
21 and any item of income from rents or royalties from real or
22 tangible personal property, interest, dividends, and patent or
23 copyright royalties, and prizes awarded under the Illinois
24 Lottery Law, to the extent such item constitutes nonbusiness

1 income, together with any item of deduction directly allocable
2 thereto, shall be allocated by any person other than a resident
3 as provided in this Section.

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

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

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

13 (B) The taxpayer had its commercial domicile in this State
14 and was not taxable in the state in which the property had its
15 situs.

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

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

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

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

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

18 (d) Patent and copyright royalties.

19 (1) Allocation. Patent and copyright royalties are
20 allocable to this State:

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

23 (B) If and to the extent that the patent or copyright is
24 utilized by the payer in a state in which the taxpayer is not
25 taxable with respect to such royalties and, at the time such
26 royalties were paid or accrued, the taxpayer had its commercial

1 domicile in this State.

2 (2) Utilization.

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

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

18 (e) Illinois lottery prizes. Prizes awarded under the
19 Illinois Lottery Law ~~"Illinois Lottery Law", approved December~~
20 ~~14, 1973,~~ are allocable to this State. Payments received in
21 taxable years ending on or after December 31, 2012, from the
22 assignment of a prize under Section 13.1 of the Illinois
23 Lottery Law are allocable to this State.

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

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

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

7 (g) Cross references. (1) For allocation of interest and
8 dividends by persons other than residents, see Section
9 301(c)(2).

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

12 (Source: P.A. 79-743.)

13 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

14 (Text of Section before amendment by P.A. 97-636)

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

16 (a) In general. The business income of a person other than
17 a resident shall be allocated to this State if such person's
18 business income is derived solely from this State. If a person
19 other than a resident derives business income from this State
20 and one or more other states, then, for tax years ending on or
21 before December 30, 1998, and except as otherwise provided by
22 this Section, such person's business income shall be
23 apportioned to this State by multiplying the income by a
24 fraction, the numerator of which is the sum of the property
25 factor (if any), the payroll factor (if any) and 200% of the

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

11 (1) Property factor.

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

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

25 (C) The average value of property shall be determined
26 by averaging the values at the beginning and ending of the

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

5 (2) Payroll factor.

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

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

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

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

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

26 (iv) Compensation paid to nonresident professional

1 athletes.

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

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

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

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

24 (2) The term "member of a professional
25 athletic team" includes those employees who are
26 active players, players on the disabled list, and

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

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

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

1 activities are conducted at team facilities.

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

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

21 (D) Days for which a member of a
22 professional athletic team is not compensated
23 and is not performing services for the team in
24 any manner, including days when such member of
25 a professional athletic team has been
26 suspended without pay and prohibited from

1 performing any services for the team, shall not
2 be treated as duty days.

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

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

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

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

25 This compensation shall include, but is not
26 limited to, salaries, wages, bonuses as described

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

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

1 (3) Sales factor.

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

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

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

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

1 property is purchased for resale.

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

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

11 (ii) Place of utilization.

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

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

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

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

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

22 (B-2) Gross receipts from the license, sale, or other
23 disposition of patents, copyrights, trademarks, and
24 similar items of intangible personal property, other than
25 gross receipts governed by paragraph (B-7) of this item
26 (3), may be included in the numerator or denominator of the

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

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

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

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

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

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

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

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

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

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

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

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

1 services.

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

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

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

26 "Prepaid telecommunication service" means the

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

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

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

25 "Service address" means:

26 (a) The location of the telecommunications

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

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

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

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

1 added. "Telecommunications service" does not include:

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

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

10 (c) Tangible personal property;

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

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

15 (f) Internet access service;

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

26 (h) "Ancillary services"; or

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

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

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

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

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

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

25 (iii) Receipts from the sale of postpaid
26 telecommunications service at retail are in this State

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

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

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

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

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

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

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

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

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

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

25 (a) 100% of the receipts from access fees
26 attributable to intrastate telecommunications

1 service that both originates and terminates in
2 this State.

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

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

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

25 (B-7) For taxable years ending on or after December 31,
26 2008, receipts from the sale of broadcasting services are

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

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

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

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

1 either through a station, a network, or a cable system.

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

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

25 (i) In the case of advertising revenue from
26 broadcasting, the customer is the advertiser and

1 the service is received in this State if the
2 commercial domicile of the advertiser is in this
3 State.

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

21 (iii) In the case where film or radio
22 programming is broadcast by a station, a network,
23 or a cable system for a fee or other remuneration
24 from the person providing the programming, the
25 portion of the broadcast service that is received
26 by such station, network, or cable system in this

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

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

23 (v) In the case where film or radio programming
24 is provided by a taxpayer that is not a network or
25 station to another person for broadcasting in
26 exchange for a fee or other remuneration from that

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

10 (B-8) Gross receipts from winnings under the Illinois
11 Lottery Law from the assignment of a prize under Section
12 13-1 of the Illinois Lottery Law are received in this
13 State. This paragraph (B-8) applies only to taxable years
14 ending on or after December 31, 2012.

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

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

20 (ii) The income-producing activity is performed
21 both within and without this State and a greater
22 proportion of the income-producing activity is
23 performed within this State than without this State,
24 based on performance costs.

25 (C-5) For taxable years ending on or after December 31,
26 2008, sales, other than sales governed by paragraphs (B),

1 (B-1), (B-2), (B-5), ~~and~~ (B-7), and (B-8) are in this State
2 if any of the following criteria are met:

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

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

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

19 (a) in the case of a taxpayer who is a dealer
20 in the item of intangible personal property within
21 the meaning of Section 475 of the Internal Revenue
22 Code, the income or gain is received from a
23 customer in this State. For purposes of this
24 subparagraph, a customer is in this State if the
25 customer is an individual, trust or estate who is a
26 resident of this State and, for all other

1 customers, if the customer's commercial domicile
2 is in this State. Unless the dealer has actual
3 knowledge of the residence or commercial domicile
4 of a customer during a taxable year, the customer
5 shall be deemed to be a customer in this State if
6 the billing address of the customer, as shown in
7 the records of the dealer, is in this State; or

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

17 (iv) Sales of services are in this State if the
18 services are received in this State. For the purposes
19 of this section, gross receipts from the performance of
20 services provided to a corporation, partnership, or
21 trust may only be attributed to a state where that
22 corporation, partnership, or trust has a fixed place of
23 business. If the state where the services are received
24 is not readily determinable or is a state where the
25 corporation, partnership, or trust receiving the
26 service does not have a fixed place of business, the

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

14 (D) For taxable years ending on or after December 31,
15 1995, the following items of income shall not be included
16 in the numerator or denominator of the sales factor:
17 dividends; amounts included under Section 78 of the
18 Internal Revenue Code; and Subpart F income as defined in
19 Section 952 of the Internal Revenue Code. No inference
20 shall be drawn from the enactment of this paragraph (D) in
21 construing this Section for taxable years ending before
22 December 31, 1995.

23 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
24 ending on or after December 31, 1999, provided that a
25 taxpayer may elect to apply the provisions of these
26 paragraphs to prior tax years. Such election shall be made

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

14 (b) Insurance companies.

15 (1) In general. Except as otherwise provided by
16 paragraph (2), business income of an insurance company for
17 a taxable year shall be apportioned to this State by
18 multiplying such income by a fraction, the numerator of
19 which is the direct premiums written for insurance upon
20 property or risk in this State, and the denominator of
21 which is the direct premiums written for insurance upon
22 property or risk everywhere. For purposes of this
23 subsection, the term "direct premiums written" means the
24 total amount of direct premiums written, assessments and
25 annuity considerations as reported for the taxable year on
26 the annual statement filed by the company with the Illinois

1 Director of Insurance in the form approved by the National
2 Convention of Insurance Commissioners or such other form as
3 may be prescribed in lieu thereof.

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

1 the sum of the total direct premiums written by each such
2 ceding company for the taxable year. The election made by a
3 company under this paragraph for its first taxable year
4 ending on or after December 31, 2011, shall be binding for
5 that company for that taxable year and for all subsequent
6 taxable years, and may be altered only with the written
7 permission of the Department, which shall not be
8 unreasonably withheld.

9 (c) Financial organizations.

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

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

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

26 (C) Dividends, and interest from Illinois

1 customers, which are received within this State;

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

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

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

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

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

1 (i) The numerator shall be:

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

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

26 (ii) the denominator shall be the average

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

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

25 (3) For taxable years ending on or after December 31,
26 2008, the business income of a financial organization shall

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

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

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

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

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

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

24 (vi) Receipts from the performance of services,
25 including, but not limited to, fiduciary, advisory,
26 and brokerage services, are in this State if the

1 services are received in this State within the meaning
2 of subparagraph (a) (3) (C-5) (iv) of this Section.

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

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

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

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

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

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

22 (A) The amount of interest, dividends, net
23 gains (but not less than zero), and other
24 income from investment assets and activities
25 in the investment account to be attributed to
26 this State and included in the numerator is

1 determined by multiplying all such income from
2 such assets and activities by a fraction, the
3 numerator of which is the gross income from
4 such assets and activities which are properly
5 assigned to a fixed place of business of the
6 taxpayer within this State and the denominator
7 of which is the gross income from all such
8 assets and activities.

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

24 (C) The amount of interest, dividends,
25 gains, and other income from trading assets and
26 activities, including but not limited to

1 assets and activities in the matched book, in
2 the arbitrage book and foreign currency
3 transactions (but excluding amounts described
4 in subparagraphs (A) or (B) of this paragraph),
5 attributable to this State and included in the
6 numerator is determined by multiplying the
7 amount described in subparagraph (B) of
8 paragraph (1) of this subsection by a fraction,
9 the numerator of which is the gross income from
10 such trading assets and activities which are
11 properly assigned to a fixed place of business
12 of the taxpayer within this State and the
13 denominator of which is the gross income from
14 all such assets and activities.

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

24 (i) the taxpayer has assigned, in the
25 regular course of its business, such asset
26 or activity on its records to a fixed place

1 of business consistent with federal or
2 state regulatory requirements;

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

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

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

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

17 (4) (Blank).

18 (5) (Blank).

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

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

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

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

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

18 (2) Such business income derived from transportation
19 by pipeline shall be apportioned to this State by
20 multiplying such income by a fraction, the numerator of
21 which is the revenue miles of the person in this State, and
22 the denominator of which is the revenue miles of the person
23 everywhere. For the purposes of this paragraph, a revenue
24 mile is the transportation by pipeline of 1 barrel of oil,
25 1,000 cubic feet of gas, or of any specified quantity of
26 any other substance, the distance of 1 mile for a

1 consideration.

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

25 (A) relative railway operating income from total
26 passenger and total freight service, as reported to the

1 Surface Transportation Board, in the case of
2 transportation by railroad; and

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

6 (4) For taxable years ending on or after December 31,
7 2008, business income derived from furnishing airline
8 transportation services shall be apportioned to this State
9 by multiplying such income by a fraction, the numerator of
10 which is the revenue miles of the person in this State, and
11 the denominator of which is the revenue miles of the person
12 everywhere. For purposes of this paragraph, a revenue mile
13 is the transportation of one passenger or one net ton of
14 freight the distance of one mile for a consideration. If a
15 person is engaged in the transportation of both passengers
16 and freight, the fraction above referred to shall be
17 determined by means of an average of the passenger revenue
18 mile fraction and the freight revenue mile fraction,
19 weighted to reflect the person's relative gross receipts
20 from passenger and freight airline transportation.

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

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

8 (1) Separate accounting;

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

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

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

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

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

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

25 (2) for tax years ending on or after December 31, 1999
26 and before December 31, 2000, 8 1/3% of the property factor

1 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales
2 factor;

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

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

12 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11.)

13 (Text of Section after amendment by P.A. 97-636)

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

15 (a) In general. The business income of a person other than
16 a resident shall be allocated to this State if such person's
17 business income is derived solely from this State. If a person
18 other than a resident derives business income from this State
19 and one or more other states, then, for tax years ending on or
20 before December 30, 1998, and except as otherwise provided by
21 this Section, such person's business income shall be
22 apportioned to this State by multiplying the income by a
23 fraction, the numerator of which is the sum of the property
24 factor (if any), the payroll factor (if any) and 200% of the
25 sales factor (if any), and the denominator of which is 4

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

10 (1) Property factor.

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

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

24 (C) The average value of property shall be determined
25 by averaging the values at the beginning and ending of the
26 taxable year but the Director may require the averaging of

1 monthly values during the taxable year if reasonably
2 required to reflect properly the average value of the
3 person's property.

4 (2) Payroll factor.

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

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

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

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

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

25 (iv) Compensation paid to nonresident professional
26 athletes.

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

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

17 (c) Definitions. For purposes of this subpart
18 (iv):

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

23 (2) The term "member of a professional
24 athletic team" includes those employees who are
25 active players, players on the disabled list, and
26 any other persons required to travel and who travel

1 with and perform services on behalf of a
2 professional athletic team on a regular basis.
3 This includes, but is not limited to, coaches,
4 managers, and trainers.

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

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

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

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

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

1 be treated as duty days.

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

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

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

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

24 This compensation shall include, but is not
25 limited to, salaries, wages, bonuses as described
26 in this subpart, and any other type of compensation

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

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

26 (3) Sales factor.

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

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

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

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

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

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

10 (ii) Place of utilization.

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

25 (II) A copyright is utilized in a state to the
26 extent that printing or other publication

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

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

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

21 (B-2) Gross receipts from the license, sale, or other
22 disposition of patents, copyrights, trademarks, and
23 similar items of intangible personal property, other than
24 gross receipts governed by paragraph (B-7) of this item
25 (3), may be included in the numerator or denominator of the
26 sales factor only if gross receipts from licenses, sales,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 "Service address" means:

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

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

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

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

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

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

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

9 (c) Tangible personal property;

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

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

14 (f) Internet access service;

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

25 (h) "Ancillary services"; or

26 (i) Digital products "delivered

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 this State.

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

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

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

24 (B-7) For taxable years ending on or after December 31,
25 2008, receipts from the sale of broadcasting services are
26 in this State if the broadcasting services are received in

1 this State. For purposes of this paragraph (B-7), the
2 following terms have the following meanings:

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

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

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

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

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

24 (i) In the case of advertising revenue from
25 broadcasting, the customer is the advertiser and
26 the service is received in this State if the

1 commercial domicile of the advertiser is in this
2 State.

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

20 (iii) In the case where film or radio
21 programming is broadcast by a station, a network,
22 or a cable system for a fee or other remuneration
23 from the person providing the programming, the
24 portion of the broadcast service that is received
25 by such station, network, or cable system in this
26 State is measured by the portion of recipients of

1 the broadcast located in this State. Accordingly,
2 the amount of revenue related to such an
3 arrangement that is included in the Illinois
4 numerator of the sales factor is the total fee or
5 other total remuneration from the person providing
6 the programming related to that broadcast
7 multiplied by the Illinois audience factor for
8 that broadcast.

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

22 (v) In the case where film or radio programming
23 is provided by a taxpayer that is not a network or
24 station to another person for broadcasting in
25 exchange for a fee or other remuneration from that
26 person, the broadcasting service is received at

1 the location of the office of the customer from
2 which the services were ordered in the regular
3 course of the customer's trade or business.
4 Accordingly, in such a case the revenue derived by
5 the taxpayer that is included in the taxpayer's
6 Illinois numerator of the sales factor is the
7 revenue from such customers who receive the
8 broadcasting service in Illinois.

9 (B-8) Gross receipts from winnings under the Illinois
10 Lottery Law from the assignment of a prize under Section
11 13-1 of the Illinois Lottery Law are received in this
12 State. This paragraph (B-8) applies only to taxable years
13 ending on or after December 31, 2012.

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

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

19 (ii) The income-producing activity is performed
20 both within and without this State and a greater
21 proportion of the income-producing activity is
22 performed within this State than without this State,
23 based on performance costs.

24 (C-5) For taxable years ending on or after December 31,
25 2008, sales, other than sales governed by paragraphs (B),
26 (B-1), (B-2), (B-5), ~~and~~ (B-7), and (B-8) are in this State

1 if any of the following criteria are met:

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

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

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

18 (a) in the case of a taxpayer who is a dealer
19 in the item of intangible personal property within
20 the meaning of Section 475 of the Internal Revenue
21 Code, the income or gain is received from a
22 customer in this State. For purposes of this
23 subparagraph, a customer is in this State if the
24 customer is an individual, trust or estate who is a
25 resident of this State and, for all other
26 customers, if the customer's commercial domicile

1 is in this State. Unless the dealer has actual
2 knowledge of the residence or commercial domicile
3 of a customer during a taxable year, the customer
4 shall be deemed to be a customer in this State if
5 the billing address of the customer, as shown in
6 the records of the dealer, is in this State; or

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

16 (iv) Sales of services are in this State if the
17 services are received in this State. For the purposes
18 of this section, gross receipts from the performance of
19 services provided to a corporation, partnership, or
20 trust may only be attributed to a state where that
21 corporation, partnership, or trust has a fixed place of
22 business. If the state where the services are received
23 is not readily determinable or is a state where the
24 corporation, partnership, or trust receiving the
25 service does not have a fixed place of business, the
26 services shall be deemed to be received at the location

1 of the office of the customer from which the services
2 were ordered in the regular course of the customer's
3 trade or business. If the ordering office cannot be
4 determined, the services shall be deemed to be received
5 at the office of the customer to which the services are
6 billed. If the taxpayer is not taxable in the state in
7 which the services are received, the sale must be
8 excluded from both the numerator and the denominator of
9 the sales factor. The Department shall adopt rules
10 prescribing where specific types of service are
11 received, including, but not limited to, publishing,
12 and utility service.

13 (D) For taxable years ending on or after December 31,
14 1995, the following items of income shall not be included
15 in the numerator or denominator of the sales factor:
16 dividends; amounts included under Section 78 of the
17 Internal Revenue Code; and Subpart F income as defined in
18 Section 952 of the Internal Revenue Code. No inference
19 shall be drawn from the enactment of this paragraph (D) in
20 construing this Section for taxable years ending before
21 December 31, 1995.

22 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
23 ending on or after December 31, 1999, provided that a
24 taxpayer may elect to apply the provisions of these
25 paragraphs to prior tax years. Such election shall be made
26 in the form and manner prescribed by the Department, shall

1 be irrevocable, and shall apply to all tax years; provided
2 that, if a taxpayer's Illinois income tax liability for any
3 tax year, as assessed under Section 903 prior to January 1,
4 1999, was computed in a manner contrary to the provisions
5 of paragraphs (B-1) or (B-2), no refund shall be payable to
6 the taxpayer for that tax year to the extent such refund is
7 the result of applying the provisions of paragraph (B-1) or
8 (B-2) retroactively. In the case of a unitary business
9 group, such election shall apply to all members of such
10 group for every tax year such group is in existence, but
11 shall not apply to any taxpayer for any period during which
12 that taxpayer is not a member of such group.

13 (b) Insurance companies.

14 (1) In general. Except as otherwise provided by
15 paragraph (2), business income of an insurance company for
16 a taxable year shall be apportioned to this State by
17 multiplying such income by a fraction, the numerator of
18 which is the direct premiums written for insurance upon
19 property or risk in this State, and the denominator of
20 which is the direct premiums written for insurance upon
21 property or risk everywhere. For purposes of this
22 subsection, the term "direct premiums written" means the
23 total amount of direct premiums written, assessments and
24 annuity considerations as reported for the taxable year on
25 the annual statement filed by the company with the Illinois
26 Director of Insurance in the form approved by the National

1 Convention of Insurance Commissioners or such other form as
2 may be prescribed in lieu thereof.

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

1 ceding company for the taxable year. The election made by a
2 company under this paragraph for its first taxable year
3 ending on or after December 31, 2011, shall be binding for
4 that company for that taxable year and for all subsequent
5 taxable years, and may be altered only with the written
6 permission of the Department, which shall not be
7 unreasonably withheld.

8 (c) Financial organizations.

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

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

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

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

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

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

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

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

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

26 (i) The numerator shall be:

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

14 The average aggregate, determined on a
15 quarterly basis, of such loans (other than loans of
16 an international banking facility), as reported by
17 the financial institution for its branches,
18 agencies and offices within the state, on the
19 corresponding Schedule and lines of the
20 Consolidated Report of Condition for the current
21 taxable year, provided, however, that in no case
22 shall the amount determined in this clause (the
23 subtrahend) exceed the amount determined in the
24 preceding clause (the minuend); and

25 (ii) the denominator shall be the average
26 aggregate, determined on a quarterly basis, of the

1 international banking facility's loans to banks in
2 foreign countries, to foreign domiciled borrowers
3 (except where secured primarily by real estate)
4 and to foreign governments and other foreign
5 official institutions, which were recorded in its
6 financial accounts for the current taxable year.

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

24 (3) For taxable years ending on or after December 31,
25 2008, the business income of a financial organization shall
26 be apportioned to this State by multiplying such income by

1 a fraction, the numerator of which is its gross receipts
2 from sources in this State or otherwise attributable to
3 this State's marketplace and the denominator of which is
4 its gross receipts everywhere during the taxable year.
5 "Gross receipts" for purposes of this subparagraph (3)
6 means gross income, including net taxable gain on
7 disposition of assets, including securities and money
8 market instruments, when derived from transactions and
9 activities in the regular course of the financial
10 organization's trade or business. The following examples
11 are illustrative:

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

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

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

1 disposition, and other receipts from consumer loans
2 that are not secured by real or tangible personal
3 property are from sources in this State if the debtor
4 is a resident of this State.

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

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

23 (vi) Receipts from the performance of services,
24 including, but not limited to, fiduciary, advisory,
25 and brokerage services, are in this State if the
26 services are received in this State within the meaning

1 of subparagraph (a) (3) (C-5) (iv) of this Section.

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

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

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

26 (A) The receipts factor shall include the

1 amount by which interest from federal funds
2 sold and securities purchased under resale
3 agreements exceeds interest expense on federal
4 funds purchased and securities sold under
5 repurchase agreements.

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

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

21 (A) The amount of interest, dividends, net
22 gains (but not less than zero), and other
23 income from investment assets and activities
24 in the investment account to be attributed to
25 this State and included in the numerator is
26 determined by multiplying all such income from

1 such assets and activities by a fraction, the
2 numerator of which is the gross income from
3 such assets and activities which are properly
4 assigned to a fixed place of business of the
5 taxpayer within this State and the denominator
6 of which is the gross income from all such
7 assets and activities.

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

23 (C) The amount of interest, dividends,
24 gains, and other income from trading assets and
25 activities, including but not limited to
26 assets and activities in the matched book, in

1 the arbitrage book and foreign currency
2 transactions (but excluding amounts described
3 in subparagraphs (A) or (B) of this paragraph),
4 attributable to this State and included in the
5 numerator is determined by multiplying the
6 amount described in subparagraph (B) of
7 paragraph (1) of this subsection by a fraction,
8 the numerator of which is the gross income from
9 such trading assets and activities which are
10 properly assigned to a fixed place of business
11 of the taxpayer within this State and the
12 denominator of which is the gross income from
13 all such assets and activities.

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

23 (i) the taxpayer has assigned, in the
24 regular course of its business, such asset
25 or activity on its records to a fixed place
26 of business consistent with federal or

1 state regulatory requirements;

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

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

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

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

16 (4) (Blank).

17 (5) (Blank).

18 (c-1) Federally regulated exchanges. For taxable years
19 ending on or after December 31, 2012, business income of a
20 federally regulated exchange shall, at the option of the
21 federally regulated exchange, be apportioned to this State by
22 multiplying such income by a fraction, the numerator of which
23 is its business income from sources within this State, and the
24 denominator of which is its business income from all sources.
25 For purposes of this subsection, the business income within
26 this State of a federally regulated exchange is the sum of the

1 following:

2 (1) Receipts attributable to transactions executed on
3 a physical trading floor if that physical trading floor is
4 located in this State.

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

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

17 "Federally regulated exchange" means (i) a "registered
18 entity" within the meaning of 7 U.S.C. Section 1a(40)(A), (B),
19 or (C), (ii) an "exchange" or "clearing agency" within the
20 meaning of 15 U.S.C. Section 78c (a)(1) or (23), (iii) any such
21 entities regulated under any successor regulatory structure to
22 the foregoing, and (iv) all taxpayers who are members of the
23 same unitary business group as a federally regulated exchange,
24 determined without regard to the prohibition in Section
25 1501(a)(27) of this Act against including in a unitary business
26 group taxpayers who are ordinarily required to apportion

1 business income under different subsections of this Section;
2 provided that this subparagraph (iv) shall apply only if 50% or
3 more of the business receipts of the unitary business group
4 determined by application of this subparagraph (iv) for the
5 taxable year are attributable to the matching, execution, or
6 clearing of transactions conducted by an entity described in
7 subparagraph (i), (ii), or (iii) of this paragraph.

8 In no event shall the Illinois apportionment percentage
9 computed in accordance with this subsection (c-1) for any
10 taxpayer for any tax year be less than the Illinois
11 apportionment percentage computed under this subsection (c-1)
12 for that taxpayer for the first full tax year ending on or
13 after December 31, 2013 for which this subsection (c-1) applied
14 to the taxpayer.

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

19 (1) Such business income (other than that derived from
20 transportation by pipeline) shall be apportioned to this
21 State by multiplying such income by a fraction, the
22 numerator of which is the revenue miles of the person in
23 this State, and the denominator of which is the revenue
24 miles of the person everywhere. For purposes of this
25 paragraph, a revenue mile is the transportation of 1
26 passenger or 1 net ton of freight the distance of 1 mile

1 for a consideration. Where a person is engaged in the
2 transportation of both passengers and freight, the
3 fraction above referred to shall be determined by means of
4 an average of the passenger revenue mile fraction and the
5 freight revenue mile fraction, weighted to reflect the
6 person's

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

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

14 (2) Such business income derived from transportation
15 by pipeline shall be apportioned to this State by
16 multiplying such income by a fraction, the numerator of
17 which is the revenue miles of the person in this State, and
18 the denominator of which is the revenue miles of the person
19 everywhere. For the purposes of this paragraph, a revenue
20 mile is the transportation by pipeline of 1 barrel of oil,
21 1,000 cubic feet of gas, or of any specified quantity of
22 any other substance, the distance of 1 mile for a
23 consideration.

24 (3) For taxable years ending on or after December 31,
25 2008, business income derived from providing
26 transportation services other than airline services shall

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

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

25 (B) relative gross receipts from passenger and
26 freight transportation, in case of transportation

1 other than by railroad.

2 (4) For taxable years ending on or after December 31,
3 2008, business income derived from furnishing airline
4 transportation services shall be apportioned to this State
5 by multiplying such income by a fraction, the numerator of
6 which is the revenue miles of the person in this State, and
7 the denominator of which is the revenue miles of the person
8 everywhere. For purposes of this paragraph, a revenue mile
9 is the transportation of one passenger or one net ton of
10 freight the distance of one mile for a consideration. If a
11 person is engaged in the transportation of both passengers
12 and freight, the fraction above referred to shall be
13 determined by means of an average of the passenger revenue
14 mile fraction and the freight revenue mile fraction,
15 weighted to reflect the person's relative gross receipts
16 from passenger and freight airline transportation.

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

23 (f) Alternative allocation. If the allocation and
24 apportionment provisions of subsections (a) through (e) and of
25 subsection (h) do not fairly represent the extent of a person's
26 business activity in this State, the person may petition for,

1 or the Director may, without a petition, permit or require, in
2 respect of all or any part of the person's business activity,
3 if reasonable:

4 (1) Separate accounting;

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

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

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

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

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

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

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

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

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

8 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11;
9 97-636, eff. 6-1-12.)

10 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

11 Sec. 701. Requirement and Amount of Withholding.

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

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

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

1 subsection (b) of Section 201.

2 (b) Payment to Residents. Any payment (including
3 compensation, but not including a payment from which
4 withholding is required under Section 710 of this Act) to a
5 resident by a payor maintaining an office or transacting
6 business within this State (including any agency, officer, or
7 employee of this State or of any political subdivision of this
8 State) and on which withholding of tax is required under the
9 provisions of the Internal Revenue Code shall be deemed to be
10 compensation paid in this State by an employer to an employee
11 for the purposes of Article 7 and Section 601(b)(1) to the
12 extent such payment is included in the recipient's base income
13 and not subjected to withholding by another state.
14 Notwithstanding any other provision to the contrary, no amount
15 shall be withheld from unemployment insurance benefit payments
16 made to an individual pursuant to the Unemployment Insurance
17 Act unless the individual has voluntarily elected the
18 withholding pursuant to rules promulgated by the Director of
19 Employment Security.

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

1 withhold tax pursuant to this Section.

2 (d) Reciprocal Exemption. The Director may enter into an
3 agreement with the taxing authorities of any state which
4 imposes a tax on or measured by income to provide that
5 compensation paid in such state to residents of this State
6 shall be exempt from withholding of such tax; in such case, any
7 compensation paid in this State to residents of such state
8 shall be exempt from withholding. All reciprocal agreements
9 shall be subject to the requirements of Section 2505-575 of the
10 Department of Revenue Law (20 ILCS 2505/2505-575).

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

15 (Source: P.A. 97-507, eff. 8-23-11.)

16 (35 ILCS 5/710) (from Ch. 120, par. 7-710)

17 Sec. 710. Withholding from lottery winnings. (a) In
18 General.

19 (1) Any person making a payment to a resident or
20 nonresident of winnings under the Illinois Lottery Law and
21 not required to withhold Illinois income tax from such
22 payment under Subsection (b) of Section 701 of this Act
23 because those winnings are not subject to Federal income
24 tax withholding, must withhold Illinois income tax from
25 such payment at a rate equal to the percentage tax rate for

1 individuals provided in subsection (b) of Section 201,
2 provided that withholding is not required if such payment
3 of winnings is less than \$1,000.

4 (2) In the case of an assignment of a lottery prize
5 under Section 13.1 of the Illinois Lottery Law, any person
6 making a payment of the purchase price after December 31,
7 2012, shall withhold from the amount of each payment at a
8 rate equal to the percentage tax rate for individuals
9 provided in subsection (b) of Section 201.

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

15 (Source: P.A. 85-731.)

16 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

17 Sec. 905. Limitations on Notices of Deficiency.

18 (a) In general. Except as otherwise provided in this Act:

19 (1) A notice of deficiency shall be issued not later
20 than 3 years after the date the return was filed, and

21 (2) No deficiency shall be assessed or collected with
22 respect to the year for which the return was filed unless
23 such notice is issued within such period.

24 (b) Substantial omission of items.

25 (1) Omission of more than 25% of income. If the

1 taxpayer omits from base income an amount properly
2 includible therein which is in excess of 25% of the amount
3 of base income stated in the return, a notice of deficiency
4 may be issued not later than 6 years after the return was
5 filed. For purposes of this paragraph, there shall not be
6 taken into account any amount which is omitted in the
7 return if such amount is disclosed in the return, or in a
8 statement attached to the return, in a manner adequate to
9 apprise the Department of the nature and the amount of such
10 item.

11 (2) Reportable transactions. If a taxpayer fails to
12 include on any return or statement for any taxable year any
13 information with respect to a reportable transaction, as
14 required under Section 501(b) of this Act, a notice of
15 deficiency may be issued not later than 6 years after the
16 return is filed with respect to the taxable year in which
17 the taxpayer participated in the reportable transaction
18 and said deficiency is limited to the non-disclosed item.

19 (3) Withholding. If an employer omits from a return
20 required under Section 704A of this Act for any period
21 beginning on or after January 1, 2012, an amount required
22 to be withheld and to be reported on that return which is
23 in excess of 25% of the total amount of withholding
24 required to be reported on that return, a notice of
25 deficiency may be issued not later than 6 years after the
26 return was filed.

1 (c) No return or fraudulent return. If no return is filed
2 or a false and fraudulent return is filed with intent to evade
3 the tax imposed by this Act, a notice of deficiency may be
4 issued at any time. For purposes of this subsection (c), any
5 taxpayer who is required to join in the filing of a return
6 filed under the provisions of subsection (e) of Section 502 of
7 this Act for a taxable year ending on or after December 31,
8 2012 and who is not included on that return and does not file
9 its own return for that taxable year shall be deemed to have
10 failed to file a return; provided that the amount of any
11 proposed assessment set forth in a notice of deficiency issued
12 under this subsection (c) shall be limited to the amount of any
13 increase in liability under this Act that should have reported
14 on the return required under the provisions of subsection (e)
15 of Section 502 of this Act for that taxable year resulting from
16 proper inclusion of that taxpayer on that return.

17 (d) Failure to report federal change. If a taxpayer fails
18 to notify the Department in any case where notification is
19 required by Section 304(c) or 506(b), or fails to report a
20 change or correction which is treated in the same manner as if
21 it were a deficiency for federal income tax purposes, a notice
22 of deficiency may be issued (i) at any time or (ii) on or after
23 August 13, 1999, at any time for the taxable year for which the
24 notification is required or for any taxable year to which the
25 taxpayer may carry an Article 2 credit, or a Section 207 loss,
26 earned, incurred, or used in the year for which the

1 notification is required; provided, however, that the amount of
2 any proposed assessment set forth in the notice shall be
3 limited to the amount of any deficiency resulting under this
4 Act from the recomputation of the taxpayer's net income,
5 Article 2 credits, or Section 207 loss earned, incurred, or
6 used in the taxable year for which the notification is required
7 after giving effect to the item or items required to be
8 reported.

9 (e) Report of federal change.

10 (1) Before August 13, 1999, in any case where
11 notification of an alteration is given as required by
12 Section 506(b), a notice of deficiency may be issued at any
13 time within 2 years after the date such notification is
14 given, provided, however, that the amount of any proposed
15 assessment set forth in such notice shall be limited to the
16 amount of any deficiency resulting under this Act from
17 recomputation of the taxpayer's net income, net loss, or
18 Article 2 credits for the taxable year after giving effect
19 to the item or items reflected in the reported alteration.

20 (2) On and after August 13, 1999, in any case where
21 notification of an alteration is given as required by
22 Section 506(b), a notice of deficiency may be issued at any
23 time within 2 years after the date such notification is
24 given for the taxable year for which the notification is
25 given or for any taxable year to which the taxpayer may
26 carry an Article 2 credit, or a Section 207 loss, earned,

1 incurred, or used in the year for which the notification is
2 given, provided, however, that the amount of any proposed
3 assessment set forth in such notice shall be limited to the
4 amount of any deficiency resulting under this Act from
5 recomputation of the taxpayer's net income, Article 2
6 credits, or Section 207 loss earned, incurred, or used in
7 the taxable year for which the notification is given after
8 giving effect to the item or items reflected in the
9 reported alteration.

10 (f) Extension by agreement. Where, before the expiration of
11 the time prescribed in this Section for the issuance of a
12 notice of deficiency, both the Department and the taxpayer
13 shall have consented in writing to its issuance after such
14 time, such notice may be issued at any time prior to the
15 expiration of the period agreed upon. In the case of a taxpayer
16 who is a partnership, Subchapter S corporation, or trust and
17 who enters into an agreement with the Department pursuant to
18 this subsection on or after January 1, 2003, a notice of
19 deficiency may be issued to the partners, shareholders, or
20 beneficiaries of the taxpayer at any time prior to the
21 expiration of the period agreed upon. Any proposed assessment
22 set forth in the notice, however, shall be limited to the
23 amount of any deficiency resulting under this Act from
24 recomputation of items of income, deduction, credits, or other
25 amounts of the taxpayer that are taken into account by the
26 partner, shareholder, or beneficiary in computing its

1 liability under this Act. The period so agreed upon may be
2 extended by subsequent agreements in writing made before the
3 expiration of the period previously agreed upon.

4 (g) Erroneous refunds. In any case in which there has been
5 an erroneous refund of tax payable under this Act, a notice of
6 deficiency may be issued at any time within 2 years from the
7 making of such refund, or within 5 years from the making of
8 such refund if it appears that any part of the refund was
9 induced by fraud or the misrepresentation of a material fact,
10 provided, however, that the amount of any proposed assessment
11 set forth in such notice shall be limited to the amount of such
12 erroneous refund.

13 Beginning July 1, 1993, in any case in which there has been
14 a refund of tax payable under this Act attributable to a net
15 loss carryback as provided for in Section 207, and that refund
16 is subsequently determined to be an erroneous refund due to a
17 reduction in the amount of the net loss which was originally
18 carried back, a notice of deficiency for the erroneous refund
19 amount may be issued at any time during the same time period in
20 which a notice of deficiency can be issued on the loss year
21 creating the carryback amount and subsequent erroneous refund.
22 The amount of any proposed assessment set forth in the notice
23 shall be limited to the amount of such erroneous refund.

24 (h) Time return deemed filed. For purposes of this Section
25 a tax return filed before the last day prescribed by law
26 (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

1 tax or any amounts required to have been withheld as tax) a
2 notice of deficiency shall be issued not later than 3 years
3 after the 15th day of the 4th month following the close of the
4 calendar year in which such withholding was required.

5 (k) Penalties for failure to make information reports. A
6 notice of deficiency for the penalties provided by Subsection
7 1405.1(c) of this Act may not be issued more than 3 years after
8 the due date of the reports with respect to which the penalties
9 are asserted.

10 (l) Penalty for failure to file withholding returns. A
11 notice of deficiency for penalties provided by Section 1004 of
12 this Act for taxpayer's failure to file withholding returns may
13 not be issued more than three years after the 15th day of the
14 4th month following the close of the calendar year in which the
15 withholding giving rise to taxpayer's obligation to file those
16 returns occurred.

17 (m) Transferee liability. A notice of deficiency may be
18 issued to a transferee relative to a liability asserted under
19 Section 1405 during time periods defined as follows:

20 1) Initial Transferee. In the case of the liability of
21 an initial transferee, up to 2 years after the expiration
22 of the period of limitation for assessment against the
23 transferor, except that if a court proceeding for review of
24 the assessment against the transferor has begun, then up to
25 2 years after the return of the certified copy of the
26 judgment in the court proceeding.

1 2) Transferee of Transferee. In the case of the
2 liability of a transferee, up to 2 years after the
3 expiration of the period of limitation for assessment
4 against the preceding transferee, but not more than 3 years
5 after the expiration of the period of limitation for
6 assessment against the initial transferor; except that if,
7 before the expiration of the period of limitation for the
8 assessment of the liability of the transferee, a court
9 proceeding for the collection of the tax or liability in
10 respect thereof has been begun against the initial
11 transferor or the last preceding transferee, as the case
12 may be, then the period of limitation for assessment of the
13 liability of the transferee shall expire 2 years after the
14 return of the certified copy of the judgment in the court
15 proceeding.

16 (n) Notice of decrease in net loss. On and after August 23,
17 2002, no notice of deficiency shall be issued as the result of
18 a decrease determined by the Department in the net loss
19 incurred by a taxpayer in any taxable year ending prior to
20 December 31, 2002 under Section 207 of this Act unless the
21 Department has notified the taxpayer of the proposed decrease
22 within 3 years after the return reporting the loss was filed or
23 within one year after an amended return reporting an increase
24 in the loss was filed, provided that in the case of an amended
25 return, a decrease proposed by the Department more than 3 years
26 after the original return was filed may not exceed the increase

1 claimed by the taxpayer on the original return.

2 (Source: P.A. 93-840, eff. 7-30-04; 94-836, eff. 6-6-06.)

3 Section 20. The Use Tax Act is amended by changing Section
4 9 as follows:

5 (35 ILCS 105/9) (from Ch. 120, par. 439.9)

6 Sec. 9. Except as to motor vehicles, watercraft, aircraft,
7 and trailers that are required to be registered with an agency
8 of this State, each retailer required or authorized to collect
9 the tax imposed by this Act shall pay to the Department the
10 amount of such tax (except as otherwise provided) at the time
11 when he is required to file his return for the period during
12 which such tax was collected, less a discount of 2.1% prior to
13 January 1, 1990, and 1.75% on and after January 1, 1990, or \$5
14 per calendar year, whichever is greater, which is allowed to
15 reimburse the retailer for expenses incurred in collecting the
16 tax, keeping records, preparing and filing returns, remitting
17 the tax and supplying data to the Department on request. In the
18 case of retailers who report and pay the tax on a transaction
19 by transaction basis, as provided in this Section, such
20 discount shall be taken with each such tax remittance instead
21 of when such retailer files his periodic return. No discount
22 shall be allowed for retailers that do not possess a valid
23 certificate of registration at the time the sale or sales are
24 made upon which the discount is taken. A retailer need not

1 remit that part of any tax collected by him to the extent that
2 he is required to remit and does remit the tax imposed by the
3 Retailers' Occupation Tax Act, with respect to the sale of the
4 same property.

5 Where such tangible personal property is sold under a
6 conditional sales contract, or under any other form of sale
7 wherein the payment of the principal sum, or a part thereof, is
8 extended beyond the close of the period for which the return is
9 filed, the retailer, in collecting the tax (except as to motor
10 vehicles, watercraft, aircraft, and trailers that are required
11 to be registered with an agency of this State), may collect for
12 each tax return period, only the tax applicable to that part of
13 the selling price actually received during such tax return
14 period.

15 Except as provided in this Section, on or before the
16 twentieth day of each calendar month, such retailer shall file
17 a return for the preceding calendar month. Such return shall be
18 filed on forms prescribed by the Department and shall furnish
19 such information as the Department may reasonably require.

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

- 1 1. The name of the seller;
- 2 2. The address of the principal place of business from
3 which he engages in the business of selling tangible
4 personal property at retail in this State;
- 5 3. The total amount of taxable receipts received by him
6 during the preceding calendar month from sales of tangible
7 personal property by him during such preceding calendar
8 month, including receipts from charge and time sales, but
9 less all deductions allowed 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 Beginning October 1, 1993, a taxpayer who has an average
21 monthly tax liability of \$150,000 or more shall make all
22 payments required by rules of the Department by electronic
23 funds transfer. Beginning October 1, 1994, a taxpayer who has
24 an average monthly tax liability of \$100,000 or more shall make
25 all payments required by rules of the Department by electronic
26 funds transfer. Beginning October 1, 1995, a taxpayer who has

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

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

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

1 All taxpayers required to make payment by electronic funds
2 transfer and any taxpayers authorized to voluntarily make
3 payments by electronic funds transfer shall make those payments
4 in the manner authorized by the Department.

5 The Department shall adopt such rules as are necessary to
6 effectuate a program of electronic funds transfer and the
7 requirements of this Section.

8 Before October 1, 2000, if the taxpayer's average monthly
9 tax liability to the Department under this Act, the Retailers'
10 Occupation Tax Act, the Service Occupation Tax Act, the Service
11 Use Tax Act was \$10,000 or more during the preceding 4 complete
12 calendar quarters, he shall file a return with the Department
13 each month by the 20th day of the month next following the
14 month during which such tax liability is incurred and shall
15 make payments to the Department on or before the 7th, 15th,
16 22nd and last day of the month during which such liability is
17 incurred. On and after October 1, 2000, if the taxpayer's
18 average monthly tax liability to the Department under this Act,
19 the Retailers' Occupation Tax Act, the Service Occupation Tax
20 Act, and the Service Use Tax Act was \$20,000 or more during the
21 preceding 4 complete calendar quarters, he shall file a return
22 with the Department each month by the 20th day of the month
23 next following the month during which such tax liability is
24 incurred and shall make payment to the Department on or before
25 the 7th, 15th, 22nd and last day of the month during which such
26 liability is incurred. If the month during which such tax

1 liability is incurred began prior to January 1, 1985, each
2 payment shall be in an amount equal to 1/4 of the taxpayer's
3 actual liability for the month or an amount set by the
4 Department not to exceed 1/4 of the average monthly liability
5 of the taxpayer to the Department for the preceding 4 complete
6 calendar quarters (excluding the month of highest liability and
7 the month of lowest liability in such 4 quarter period). If the
8 month during which such tax liability is incurred begins on or
9 after January 1, 1985, and prior to January 1, 1987, each
10 payment shall be in an amount equal to 22.5% of the taxpayer's
11 actual liability for the month or 27.5% of the taxpayer's
12 liability for the same calendar month of the preceding year. If
13 the month during which such tax liability is incurred begins on
14 or after January 1, 1987, and prior to January 1, 1988, each
15 payment shall be in an amount equal to 22.5% of the taxpayer's
16 actual liability for the month or 26.25% of the taxpayer's
17 liability for the same calendar month of the preceding year. If
18 the month during which such tax liability is incurred begins on
19 or after January 1, 1988, and prior to January 1, 1989, or
20 begins on or after January 1, 1996, each payment shall be in an
21 amount equal to 22.5% of the taxpayer's actual liability for
22 the month or 25% of the taxpayer's liability for the same
23 calendar month of the preceding year. If the month during which
24 such tax liability is incurred begins on or after January 1,
25 1989, and prior to January 1, 1996, each payment shall be in an
26 amount equal to 22.5% of the taxpayer's actual liability for

1 the month or 25% of the taxpayer's liability for the same
2 calendar month of the preceding year or 100% of the taxpayer's
3 actual liability for the quarter monthly reporting period. The
4 amount of such quarter monthly payments shall be credited
5 against the final tax liability of the taxpayer's return for
6 that month. Before October 1, 2000, once applicable, the
7 requirement of the making of quarter monthly payments to the
8 Department shall continue until such taxpayer's average
9 monthly liability to the Department during the preceding 4
10 complete calendar quarters (excluding the month of highest
11 liability and the month of lowest liability) is less than
12 \$9,000, or until such taxpayer's average monthly liability to
13 the Department as computed for each calendar quarter of the 4
14 preceding complete calendar quarter period is less than
15 \$10,000. However, if a taxpayer can show the Department that a
16 substantial change in the taxpayer's business has occurred
17 which causes the taxpayer to anticipate that his average
18 monthly tax liability for the reasonably foreseeable future
19 will fall below the \$10,000 threshold stated above, then such
20 taxpayer may petition the Department for change in such
21 taxpayer's reporting status. On and after October 1, 2000, once
22 applicable, the requirement of the making of quarter monthly
23 payments to the Department shall continue until such taxpayer's
24 average monthly liability to the Department during the
25 preceding 4 complete calendar quarters (excluding the month of
26 highest liability and the month of lowest liability) is less

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

24 If any such payment provided for in this Section exceeds
25 the taxpayer's liabilities under this Act, the Retailers'
26 Occupation Tax Act, the Service Occupation Tax Act and the

1 Service Use Tax Act, as shown by an original monthly return,
2 the Department shall issue to the taxpayer a credit memorandum
3 no later than 30 days after the date of payment, which
4 memorandum may be submitted by the taxpayer to the Department
5 in payment of tax liability subsequently to be remitted by the
6 taxpayer to the Department or be assigned by the taxpayer to a
7 similar taxpayer under this Act, the Retailers' Occupation Tax
8 Act, the Service Occupation Tax Act or the Service Use Tax Act,
9 in accordance with reasonable rules and regulations to be
10 prescribed by the Department, except that if such excess
11 payment is shown on an original monthly return and is made
12 after December 31, 1986, no credit memorandum shall be issued,
13 unless requested by the taxpayer. If no such request is made,
14 the taxpayer may credit such excess payment against tax
15 liability subsequently to be remitted by the taxpayer to the
16 Department under this Act, the Retailers' Occupation Tax Act,
17 the Service Occupation Tax Act or the Service Use Tax Act, in
18 accordance with reasonable rules and regulations prescribed by
19 the Department. If the Department subsequently determines that
20 all or any part of the credit taken was not actually due to the
21 taxpayer, the taxpayer's 2.1% or 1.75% vendor's discount shall
22 be reduced by 2.1% or 1.75% of the difference between the
23 credit taken and that actually due, and the taxpayer shall be
24 liable for penalties and interest on such difference.

25 If the retailer is otherwise required to file a monthly
26 return and if the retailer's average monthly tax liability to

1 the Department does not exceed \$200, the Department may
2 authorize his returns to be filed on a quarter annual basis,
3 with the return for January, February, and March of a given
4 year being due by April 20 of such year; with the return for
5 April, May and June of a given year being due by July 20 of such
6 year; with the return for July, August and September of a given
7 year being due by October 20 of such year, and with the return
8 for October, November and December of a given year being due by
9 January 20 of the following year.

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

16 Such quarter annual and annual returns, as to form and
17 substance, shall be subject to the same requirements as monthly
18 returns.

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

26 In addition, with respect to motor vehicles, watercraft,

1 aircraft, and trailers that are required to be registered with
2 an agency of this State, every retailer selling this kind of
3 tangible personal property shall file, with the Department,
4 upon a form to be prescribed and supplied by the Department, a
5 separate return for each such item of tangible personal
6 property which the retailer sells, except that if, in the same
7 transaction, (i) a retailer of aircraft, watercraft, motor
8 vehicles or trailers transfers more than one aircraft,
9 watercraft, motor vehicle or trailer to another aircraft,
10 watercraft, motor vehicle or trailer retailer for the purpose
11 of resale or (ii) a retailer of aircraft, watercraft, motor
12 vehicles, or trailers transfers more than one aircraft,
13 watercraft, motor vehicle, or trailer to a purchaser for use as
14 a qualifying rolling stock as provided in Section 3-55 of this
15 Act, then that seller may report the transfer of all the
16 aircraft, watercraft, motor vehicles or trailers involved in
17 that transaction to the Department on the same uniform
18 invoice-transaction reporting return form. For purposes of
19 this Section, "watercraft" means a Class 2, Class 3, or Class 4
20 watercraft as defined in Section 3-2 of the Boat Registration
21 and Safety Act, a personal watercraft, or any boat equipped
22 with an inboard motor.

23 The transaction reporting return in the case of motor
24 vehicles or trailers that are required to be registered with an
25 agency of this State, shall be the same document as the Uniform
26 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 2 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 and 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 2 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;

1 the amount of tax due from the retailer with respect to such
2 transaction; the amount of tax collected from the purchaser by
3 the retailer on such transaction (or satisfactory evidence that
4 such tax is not due in that particular instance, if that is
5 claimed to be the fact); the place and date of the sale, a
6 sufficient identification of the property sold, and such other
7 information as the Department may reasonably require.

8 Such transaction reporting return shall be filed not later
9 than 20 days after the date of delivery of the item that is
10 being sold, but may be filed by the retailer at any time sooner
11 than that if he chooses to do so. The transaction reporting
12 return and tax remittance or proof of exemption from the tax
13 that is imposed by this Act may be transmitted to the
14 Department by way of the State agency with which, or State
15 officer with whom, the tangible personal property must be
16 titled or registered (if titling or registration is required)
17 if the Department and such agency or State officer determine
18 that this procedure will expedite the processing of
19 applications for title or registration.

20 With each such transaction reporting return, the retailer
21 shall remit the proper amount of tax due (or shall submit
22 satisfactory evidence that the sale is not taxable if that is
23 the case), to the Department or its agents, whereupon the
24 Department shall issue, in the purchaser's name, a tax receipt
25 (or a certificate of exemption if the Department is satisfied
26 that the particular sale is tax exempt) which such purchaser

1 may submit to the agency with which, or State officer with
2 whom, he must title or register the tangible personal property
3 that is involved (if titling or registration is required) in
4 support of such purchaser's application for an Illinois
5 certificate or other evidence of title or registration to such
6 tangible personal property.

7 No retailer's failure or refusal to remit tax under this
8 Act precludes a user, who has paid the proper tax to the
9 retailer, from obtaining his certificate of title or other
10 evidence of title or registration (if titling or registration
11 is required) upon satisfying the Department that such user has
12 paid the proper tax (if tax is due) to the retailer. The
13 Department shall adopt appropriate rules to carry out the
14 mandate of this paragraph.

15 If the user who would otherwise pay tax to the retailer
16 wants the transaction reporting return filed and the payment of
17 tax or proof of exemption made to the Department before the
18 retailer is willing to take these actions and such user has not
19 paid the tax to the retailer, such user may certify to the fact
20 of such delay by the retailer, and may (upon the Department
21 being satisfied of the truth of such certification) transmit
22 the information required by the transaction reporting return
23 and the remittance for tax or proof of exemption directly to
24 the Department and obtain his tax receipt or exemption
25 determination, in which event the transaction reporting return
26 and tax remittance (if a tax payment was required) shall be

1 credited by the Department to the proper retailer's account
2 with the Department, but without the 2.1% or 1.75% discount
3 provided for in this Section being allowed. When the user pays
4 the tax directly to the Department, he shall pay the tax in the
5 same amount and in the same form in which it would be remitted
6 if the tax had been remitted to the Department by the retailer.

7 Where a retailer collects the tax with respect to the
8 selling price of tangible personal property which he sells and
9 the purchaser thereafter returns such tangible personal
10 property and the retailer refunds the selling price thereof to
11 the purchaser, such retailer shall also refund, to the
12 purchaser, the tax so collected from the purchaser. When filing
13 his return for the period in which he refunds such tax to the
14 purchaser, the retailer may deduct the amount of the tax so
15 refunded by him to the purchaser from any other use tax which
16 such retailer may be required to pay or remit to the
17 Department, as shown by such return, if the amount of the tax
18 to be deducted was previously remitted to the Department by
19 such retailer. If the retailer has not previously remitted the
20 amount of such tax to the Department, he is entitled to no
21 deduction under this Act upon refunding such tax to the
22 purchaser.

23 Any retailer filing a return under this Section shall also
24 include (for the purpose of paying tax thereon) the total tax
25 covered by such return upon the selling price of tangible
26 personal property purchased by him at retail from a retailer,

1 but as to which the tax imposed by this Act was not collected
2 from the retailer filing such return, and such retailer shall
3 remit the amount of such tax to the Department when filing such
4 return.

5 If experience indicates such action to be practicable, the
6 Department may prescribe and furnish a combination or joint
7 return which will enable retailers, who are required to file
8 returns hereunder and also under the Retailers' Occupation Tax
9 Act, to furnish all the return information required by both
10 Acts on the one form.

11 Where the retailer has more than one business registered
12 with the Department under separate registration under this Act,
13 such retailer may not file each return that is due as a single
14 return covering all such registered businesses, but shall file
15 separate returns for each such registered business.

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

26 Beginning January 1, 1990, each month the Department shall

1 pay into the County and Mass Transit District Fund 4% of the
2 net revenue realized for the preceding month from the 6.25%
3 general rate on the selling price of tangible personal property
4 which is purchased outside Illinois at retail from a retailer
5 and which is titled or registered by an agency of this State's
6 government.

7 Beginning January 1, 1990, each month the Department shall
8 pay into the State and Local Sales Tax Reform Fund, a special
9 fund in the State Treasury, 20% of the net revenue realized for
10 the preceding month from the 6.25% general rate on the selling
11 price of tangible personal property, other than tangible
12 personal property which is purchased outside Illinois at retail
13 from a retailer and which is titled or registered by an agency
14 of this State's government.

15 Beginning August 1, 2000, each month the Department shall
16 pay into the State and Local Sales Tax Reform Fund 100% of the
17 net revenue realized for the preceding month from the 1.25%
18 rate on the selling price of motor fuel and gasohol. Beginning
19 September 1, 2010, each month the Department shall pay into the
20 State and Local Sales Tax Reform Fund 100% of the net revenue
21 realized for the preceding month from the 1.25% rate on the
22 selling price of sales tax holiday items.

23 Beginning January 1, 1990, each month the Department shall
24 pay into the Local Government Tax Fund 16% of the net revenue
25 realized for the preceding month from the 6.25% general rate on
26 the selling price of tangible personal property which is

1 purchased outside Illinois at retail from a retailer and which
2 is titled or registered by an agency of this State's
3 government.

4 Beginning October 1, 2009, each month the Department shall
5 pay into the Capital Projects Fund an amount that is equal to
6 an amount estimated by the Department to represent 80% of the
7 net revenue realized for the preceding month from the sale of
8 candy, grooming and hygiene products, and soft drinks that had
9 been taxed at a rate of 1% prior to September 1, 2009 but that
10 is now taxed at 6.25%.

11 Beginning July 1, 2011, each month the Department shall pay
12 into the Clean Air Act (CAA) Permit Fund 80% of the net revenue
13 realized for the preceding month from the 6.25% general rate on
14 the selling price of sorbents used in Illinois in the process
15 of sorbent injection as used to comply with the Environmental
16 Protection Act or the federal Clean Air Act, but the total
17 payment into the Clean Air Act (CAA) Permit Fund under this Act
18 and the Retailers' Occupation Tax Act shall not exceed
19 \$2,000,000 in any fiscal year.

20 Of the remainder of the moneys received by the Department
21 pursuant to this Act, (a) 1.75% thereof shall be paid into the
22 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on
23 and after July 1, 1989, 3.8% thereof shall be paid into the
24 Build Illinois Fund; provided, however, that if in any fiscal
25 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case
26 may be, of the moneys received by the Department and required

1 to be paid into the Build Illinois Fund pursuant to Section 3
2 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax
3 Act, Section 9 of the Service Use Tax Act, and Section 9 of the
4 Service Occupation Tax Act, such Acts being hereinafter called
5 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case
6 may be, of moneys being hereinafter called the "Tax Act
7 Amount", and (2) the amount transferred to the Build Illinois
8 Fund from the State and Local Sales Tax Reform Fund shall be
9 less than the Annual Specified Amount (as defined in Section 3
10 of the Retailers' Occupation Tax Act), an amount equal to the
11 difference shall be immediately paid into the Build Illinois
12 Fund from other moneys received by the Department pursuant to
13 the Tax Acts; and further provided, that if on the last
14 business day of any month the sum of (1) the Tax Act Amount
15 required to be deposited into the Build Illinois Bond Account
16 in the Build Illinois Fund during such month and (2) the amount
17 transferred during such month to the Build Illinois Fund from
18 the State and Local Sales Tax Reform Fund shall have been less
19 than 1/12 of the Annual Specified Amount, an amount equal to
20 the difference shall be immediately paid into the Build
21 Illinois Fund from other moneys received by the Department
22 pursuant to the Tax Acts; and, further provided, that in no
23 event shall the payments required under the preceding proviso
24 result in aggregate payments into the Build Illinois Fund
25 pursuant to this clause (b) for any fiscal year in excess of
26 the greater of (i) the Tax Act Amount or (ii) the Annual

1 Specified Amount for such fiscal year; and, further provided,
2 that the amounts payable into the Build Illinois Fund under
3 this clause (b) shall be payable only until such time as the
4 aggregate amount on deposit under each trust indenture securing
5 Bonds issued and outstanding pursuant to the Build Illinois
6 Bond Act is sufficient, taking into account any future
7 investment income, to fully provide, in accordance with such
8 indenture, for the defeasance of or the payment of the
9 principal of, premium, if any, and interest on the Bonds
10 secured by such indenture and on any Bonds expected to be
11 issued thereafter and all fees and costs payable with respect
12 thereto, all as certified by the Director of the Bureau of the
13 Budget (now Governor's Office of Management and Budget). If on
14 the last business day of any month in which Bonds are
15 outstanding pursuant to the Build Illinois Bond Act, the
16 aggregate of the moneys deposited in the Build Illinois Bond
17 Account in the Build Illinois Fund in such month shall be less
18 than the amount required to be transferred in such month from
19 the Build Illinois Bond Account to the Build Illinois Bond
20 Retirement and Interest Fund pursuant to Section 13 of the
21 Build Illinois Bond Act, an amount equal to such deficiency
22 shall be immediately paid from other moneys received by the
23 Department pursuant to the Tax Acts to the Build Illinois Fund;
24 provided, however, that any amounts paid to the Build Illinois
25 Fund in any fiscal year pursuant to this sentence shall be
26 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.

19	Fiscal Year	Total Deposit
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

1	2000	75,000,000
2	2001	80,000,000
3	2002	93,000,000
4	2003	99,000,000
5	2004	103,000,000
6	2005	108,000,000
7	2006	113,000,000
8	2007	119,000,000
9	2008	126,000,000
10	2009	132,000,000
11	2010	139,000,000
12	2011	146,000,000
13	2012	153,000,000
14	2013	161,000,000
15	2014	170,000,000
16	2015	179,000,000
17	2016	189,000,000
18	2017	199,000,000
19	2018	210,000,000
20	2019	221,000,000
21	2020	233,000,000
22	2021	246,000,000
23	2022	260,000,000
24	2023	275,000,000
25	2024	275,000,000
26	2025	275,000,000

1	2026	279,000,000
2	2027	292,000,000
3	2028	307,000,000
4	2029	322,000,000
5	2030	338,000,000
6	2031	350,000,000
7	2032	350,000,000

8 and

9 each fiscal year

10 thereafter that bonds

11 are outstanding under

12 Section 13.2 of the

13 Metropolitan Pier and

14 Exposition Authority Act,

15 but not after fiscal year 2060.

16 Beginning July 20, 1993 and in each month of each fiscal
17 year thereafter, one-eighth of the amount requested in the
18 certificate of the Chairman of the Metropolitan Pier and
19 Exposition Authority for that fiscal year, less the amount
20 deposited into the McCormick Place Expansion Project Fund by
21 the State Treasurer in the respective month under subsection
22 (g) of Section 13 of the Metropolitan Pier and Exposition
23 Authority Act, plus cumulative deficiencies in the deposits
24 required under this Section for previous months and years,
25 shall be deposited into the McCormick Place Expansion Project
26 Fund, until the full amount requested for the fiscal year, but

1 not in excess of the amount specified above as "Total Deposit",
2 has been deposited.

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

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

24 Of the remainder of the moneys received by the Department
25 pursuant to this Act, 75% thereof shall be paid into the State
26 Treasury and 25% shall be reserved in a special account and

1 used only for the transfer to the Common School Fund as part of
2 the monthly transfer from the General Revenue Fund in
3 accordance with Section 8a of the State Finance Act.

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

11 Net revenue realized for a month shall be the revenue
12 collected by the State pursuant to this Act, less the amount
13 paid out during that month as refunds to taxpayers for
14 overpayment of liability.

15 For greater simplicity of administration, manufacturers,
16 importers and wholesalers whose products are sold at retail in
17 Illinois by numerous retailers, and who wish to do so, may
18 assume the responsibility for accounting and paying to the
19 Department all tax accruing under this Act with respect to such
20 sales, if the retailers who are affected do not make written
21 objection to the Department to this arrangement.

22 (Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898,
23 eff. 5-27-10; 96-1012, eff. 7-7-10; 97-95, eff. 7-12-11;
24 97-333, eff. 8-12-11.)

25 Section 25. The Retailers' Occupation Tax Act is amended by

1 changing Section 2a as follows:

2 (35 ILCS 120/2a) (from Ch. 120, par. 441a)

3 Sec. 2a. It is unlawful for any person to engage in the
4 business of selling tangible personal property at retail in
5 this State without a certificate of registration from the
6 Department. Application for a certificate of registration
7 shall be made to the Department upon forms furnished by it.
8 Each such application shall be signed and verified and shall
9 state: (1) the name and social security number of the
10 applicant; (2) the address of his principal place of business;
11 (3) the address of the principal place of business from which
12 he engages in the business of selling tangible personal
13 property at retail in this State and the addresses of all other
14 places of business, if any (enumerating such addresses, if any,
15 in a separate list attached to and made a part of the
16 application), from which he engages in the business of selling
17 tangible personal property at retail in this State; (4) the
18 name and address of the person or persons who will be
19 responsible for filing returns and payment of taxes due under
20 this Act; (5) in the case of a corporation, the name, title,
21 and social security number of each corporate officer; (6) in
22 the case of a limited liability company, the name, social
23 security number, and FEIN number of each manager and member;
24 and (7) such other information as the Department may reasonably
25 require. The application shall contain an acceptance of

1 responsibility signed by the person or persons who will be
2 responsible for filing returns and payment of the taxes due
3 under this Act. If the applicant will sell tangible personal
4 property at retail through vending machines, his application to
5 register shall indicate the number of vending machines to be so
6 operated. If requested by the Department at any time, that
7 person shall verify the total number of vending machines he or
8 she uses in his or her business of selling tangible personal
9 property at retail.

10 The Department may deny a certificate of registration to
11 any applicant if the owner, any partner, any manager or member
12 of a limited liability company, or a corporate officer of the
13 applicant, is or has been the owner, a partner, a manager or
14 member of a limited liability company, or a corporate officer,
15 of another retailer that is in default for moneys due under
16 this Act or any other tax or fee Act administered by the
17 Department.

18 The Department may require an applicant for a certificate
19 of registration hereunder to, at the time of filing such
20 application, furnish a bond from a surety company authorized to
21 do business in the State of Illinois, or an irrevocable bank
22 letter of credit or a bond signed by 2 personal sureties who
23 have filed, with the Department, sworn statements disclosing
24 net assets equal to at least 3 times the amount of the bond to
25 be required of such applicant, or a bond secured by an
26 assignment of a bank account or certificate of deposit, stocks

1 or bonds, conditioned upon the applicant paying to the State of
2 Illinois all moneys becoming due under this Act and under any
3 other State tax law or municipal or county tax ordinance or
4 resolution under which the certificate of registration that is
5 issued to the applicant under this Act will permit the
6 applicant to engage in business without registering separately
7 under such other law, ordinance or resolution. In making a
8 determination as to whether to require a bond or other
9 security, the Department shall take into consideration whether
10 the owner, any partner, any manager or member of a limited
11 liability company, or a corporate officer of the applicant is
12 or has been the owner, a partner, a manager or member of a
13 limited liability company, or a corporate officer of another
14 retailer that is in default for moneys due under this Act or
15 any other tax or fee Act administered by the Department; and
16 whether the owner, any partner, any manager or member of a
17 limited liability company, or a corporate officer of the
18 applicant is or has been the owner, a partner, a manager or
19 member of a limited liability company, or a corporate officer
20 of another retailer whose certificate of registration has been
21 revoked within the previous 5 years under this Act or any other
22 tax or fee Act administered by the Department. If a bond or
23 other security is required, the Department shall fix the amount
24 of the bond or other security, taking into consideration the
25 amount of money expected to become due from the applicant under
26 this Act and under any other State tax law or municipal or

1 county tax ordinance or resolution under which the certificate
2 of registration that is issued to the applicant under this Act
3 will permit the applicant to engage in business without
4 registering separately under such other law, ordinance, or
5 resolution. The amount of security required by the Department
6 shall be such as, in its opinion, will protect the State of
7 Illinois against failure to pay the amount which may become due
8 from the applicant under this Act and under any other State tax
9 law or municipal or county tax ordinance or resolution under
10 which the certificate of registration that is issued to the
11 applicant under this Act will permit the applicant to engage in
12 business without registering separately under such other law,
13 ordinance or resolution, but the amount of the security
14 required by the Department shall not exceed three times the
15 amount of the applicant's average monthly tax liability, or
16 \$50,000.00, whichever amount is lower.

17 No certificate of registration under this Act shall be
18 issued by the Department until the applicant provides the
19 Department with satisfactory security, if required, as herein
20 provided for.

21 Upon receipt of the application for certificate of
22 registration in proper form, and upon approval by the
23 Department of the security furnished by the applicant, if
24 required, the Department shall issue to such applicant a
25 certificate of registration which shall permit the person to
26 whom it is issued to engage in the business of selling tangible

1 personal property at retail in this State. The certificate of
2 registration shall be conspicuously displayed at the place of
3 business which the person so registered states in his
4 application to be the principal place of business from which he
5 engages in the business of selling tangible personal property
6 at retail in this State.

7 No certificate of registration issued to a taxpayer who
8 files returns required by this Act on a monthly basis shall be
9 valid after the expiration of 5 years from the date of its
10 issuance or last renewal. The expiration date of a
11 sub-certificate of registration shall be that of the
12 certificate of registration to which the sub-certificate
13 relates. A certificate of registration shall automatically be
14 renewed, subject to revocation as provided by this Act, for an
15 additional 5 years from the date of its expiration unless
16 otherwise notified by the Department as provided by this
17 paragraph. Where a taxpayer to whom a certificate of
18 registration is issued under this Act is in default to the
19 State of Illinois for delinquent returns or for moneys due
20 under this Act or any other State tax law or municipal or
21 county ordinance administered or enforced by the Department,
22 the Department shall, not less than 120 days before the
23 expiration date of such certificate of registration, give
24 notice to the taxpayer to whom the certificate was issued of
25 the account period of the delinquent returns, the amount of
26 tax, penalty and interest due and owing from the taxpayer, and

1 that the certificate of registration shall not be automatically
2 renewed upon its expiration date unless the taxpayer, on or
3 before the date of expiration, has filed and paid the
4 delinquent returns or paid the defaulted amount in full. A
5 taxpayer to whom such a notice is issued shall be deemed an
6 applicant for renewal. The Department shall promulgate
7 regulations establishing procedures for taxpayers who file
8 returns on a monthly basis but desire and qualify to change to
9 a quarterly or yearly filing basis and will no longer be
10 subject to renewal under this Section, and for taxpayers who
11 file returns on a yearly or quarterly basis but who desire or
12 are required to change to a monthly filing basis and will be
13 subject to renewal under this Section.

14 The Department may in its discretion approve renewal by an
15 applicant who is in default if, at the time of application for
16 renewal, the applicant files all of the delinquent returns or
17 pays to the Department such percentage of the defaulted amount
18 as may be determined by the Department and agrees in writing to
19 waive all limitations upon the Department for collection of the
20 remaining defaulted amount to the Department over a period not
21 to exceed 5 years from the date of renewal of the certificate;
22 however, no renewal application submitted by an applicant who
23 is in default shall be approved if the immediately preceding
24 renewal by the applicant was conditioned upon the installment
25 payment agreement described in this Section. The payment
26 agreement herein provided for shall be in addition to and not

1 in lieu of the security that may be required by this Section of
2 a taxpayer who is no longer considered a prior continuous
3 compliance taxpayer. The execution of the payment agreement as
4 provided in this Act shall not toll the accrual of interest at
5 the statutory rate.

6 The Department may suspend a certificate of registration if
7 the Department finds that the person to whom the certificate of
8 registration has been issued knowingly sold contraband
9 cigarettes.

10 A certificate of registration issued under this Act more
11 than 5 years before the effective date of this amendatory Act
12 of 1989 shall expire and be subject to the renewal provisions
13 of this Section on the next anniversary of the date of issuance
14 of such certificate which occurs more than 6 months after the
15 effective date of this amendatory Act of 1989. A certificate of
16 registration issued less than 5 years before the effective date
17 of this amendatory Act of 1989 shall expire and be subject to
18 the renewal provisions of this Section on the 5th anniversary
19 of the issuance of the certificate.

20 If the person so registered states that he operates other
21 places of business from which he engages in the business of
22 selling tangible personal property at retail in this State, the
23 Department shall furnish him with a sub-certificate of
24 registration for each such place of business, and the applicant
25 shall display the appropriate sub-certificate of registration
26 at each such place of business. All sub-certificates of

1 registration shall bear the same registration number as that
2 appearing upon the certificate of registration to which such
3 sub-certificates relate.

4 If the applicant will sell tangible personal property at
5 retail through vending machines, the Department shall furnish
6 him with a sub-certificate of registration for each such
7 vending machine, and the applicant shall display the
8 appropriate sub-certificate of registration on each such
9 vending machine by attaching the sub-certificate of
10 registration to a conspicuous part of such vending machine. If
11 a person who is registered to sell tangible personal property
12 at retail through vending machines adds an additional vending
13 machine or additional vending machines to the number of vending
14 machines he or she uses in his or her business of selling
15 tangible personal property at retail, he or she shall notify
16 the Department, on a form prescribed by the Department, to
17 request an additional sub-certificate or additional
18 sub-certificates of registration, as applicable. With each
19 such request, the applicant shall report the number of
20 sub-certificates of registration he or she is requesting as
21 well as the total number of vending machines from which he or
22 she makes retail sales.

23 Where the same person engages in 2 or more businesses of
24 selling tangible personal property at retail in this State,
25 which businesses are substantially different in character or
26 engaged in under different trade names or engaged in under

1 other substantially dissimilar circumstances (so that it is
2 more practicable, from an accounting, auditing or bookkeeping
3 standpoint, for such businesses to be separately registered),
4 the Department may require or permit such person (subject to
5 the same requirements concerning the furnishing of security as
6 those that are provided for hereinbefore in this Section as to
7 each application for a certificate of registration) to apply
8 for and obtain a separate certificate of registration for each
9 such business or for any of such businesses, under a single
10 certificate of registration supplemented by related
11 sub-certificates of registration.

12 Any person who is registered under the "Retailers'
13 Occupation Tax Act" as of March 8, 1963, and who, during the
14 3-year period immediately prior to March 8, 1963, or during a
15 continuous 3-year period part of which passed immediately
16 before and the remainder of which passes immediately after
17 March 8, 1963, has been so registered continuously and who is
18 determined by the Department not to have been either delinquent
19 or deficient in the payment of tax liability during that period
20 under this Act or under any other State tax law or municipal or
21 county tax ordinance or resolution under which the certificate
22 of registration that is issued to the registrant under this Act
23 will permit the registrant to engage in business without
24 registering separately under such other law, ordinance or
25 resolution, shall be considered to be a Prior Continuous
26 Compliance taxpayer. Also any taxpayer who has, as verified by

1 the Department, faithfully and continuously complied with the
2 condition of his bond or other security under the provisions of
3 this Act for a period of 3 consecutive years shall be
4 considered to be a Prior Continuous Compliance taxpayer.

5 Every Prior Continuous Compliance taxpayer shall be exempt
6 from all requirements under this Act concerning the furnishing
7 of a bond or other security as a condition precedent to his
8 being authorized to engage in the business of selling tangible
9 personal property at retail in this State. This exemption shall
10 continue for each such taxpayer until such time as he may be
11 determined by the Department to be delinquent in the filing of
12 any returns, or is determined by the Department (either through
13 the Department's issuance of a final assessment which has
14 become final under the Act, or by the taxpayer's filing of a
15 return which admits tax that is not paid to be due) to be
16 delinquent or deficient in the paying of any tax under this Act
17 or under any other State tax law or municipal or county tax
18 ordinance or resolution under which the certificate of
19 registration that is issued to the registrant under this Act
20 will permit the registrant to engage in business without
21 registering separately under such other law, ordinance or
22 resolution, at which time that taxpayer shall become subject to
23 all the financial responsibility requirements of this Act and,
24 as a condition of being allowed to continue to engage in the
25 business of selling tangible personal property at retail, may
26 be required to post bond or other acceptable security with the

1 Department covering liability which such taxpayer may
2 thereafter incur. Any taxpayer who fails to pay an admitted or
3 established liability under this Act may also be required to
4 post bond or other acceptable security with this Department
5 guaranteeing the payment of such admitted or established
6 liability.

7 No certificate of registration shall be issued to any
8 person who is in default to the State of Illinois for moneys
9 due under this Act or under any other State tax law or
10 municipal or county tax ordinance or resolution under which the
11 certificate of registration that is issued to the applicant
12 under this Act will permit the applicant to engage in business
13 without registering separately under such other law, ordinance
14 or resolution.

15 Any person aggrieved by any decision of the Department
16 under this Section may, within 20 days after notice of such
17 decision, protest and request a hearing, whereupon the
18 Department shall give notice to such person of the time and
19 place fixed for such hearing and shall hold a hearing in
20 conformity with the provisions of this Act and then issue its
21 final administrative decision in the matter to such person. In
22 the absence of such a protest within 20 days, the Department's
23 decision shall become final without any further determination
24 being made or notice given.

25 With respect to security other than bonds (upon which the
26 Department may sue in the event of a forfeiture), if the

1 taxpayer fails to pay, when due, any amount whose payment such
2 security guarantees, the Department shall, after such
3 liability is admitted by the taxpayer or established by the
4 Department through the issuance of a final assessment that has
5 become final under the law, convert the security which that
6 taxpayer has furnished into money for the State, after first
7 giving the taxpayer at least 10 days' written notice, by
8 registered or certified mail, to pay the liability or forfeit
9 such security to the Department. If the security consists of
10 stocks or bonds or other securities which are listed on a
11 public exchange, the Department shall sell such securities
12 through such public exchange. If the security consists of an
13 irrevocable bank letter of credit, the Department shall convert
14 the security in the manner provided for in the Uniform
15 Commercial Code. If the security consists of a bank certificate
16 of deposit, the Department shall convert the security into
17 money by demanding and collecting the amount of such bank
18 certificate of deposit from the bank which issued such
19 certificate. If the security consists of a type of stocks or
20 other securities which are not listed on a public exchange, the
21 Department shall sell such security to the highest and best
22 bidder after giving at least 10 days' notice of the date, time
23 and place of the intended sale by publication in the "State
24 Official Newspaper". If the Department realizes more than the
25 amount of such liability from the security, plus the expenses
26 incurred by the Department in converting the security into

1 money, the Department shall pay such excess to the taxpayer who
2 furnished such security, and the balance shall be paid into the
3 State Treasury.

4 The Department shall discharge any surety and shall release
5 and return any security deposited, assigned, pledged or
6 otherwise provided to it by a taxpayer under this Section
7 within 30 days after:

8 (1) such taxpayer becomes a Prior Continuous
9 Compliance taxpayer; or

10 (2) such taxpayer has ceased to collect receipts on
11 which he is required to remit tax to the Department, has
12 filed a final tax return, and has paid to the Department an
13 amount sufficient to discharge his remaining tax
14 liability, as determined by the Department, under this Act
15 and under every other State tax law or municipal or county
16 tax ordinance or resolution under which the certificate of
17 registration issued under this Act permits the registrant
18 to engage in business without registering separately under
19 such other law, ordinance or resolution. The Department
20 shall make a final determination of the taxpayer's
21 outstanding tax liability as expeditiously as possible
22 after his final tax return has been filed; if the
23 Department cannot make such final determination within 45
24 days after receiving the final tax return, within such
25 period it shall so notify the taxpayer, stating its reasons
26 therefor.

1 (Source: P.A. 96-1355, eff. 7-28-10; 97-335, eff. 1-1-12.)

2 Section 95. No acceleration or delay. Where this Act makes
3 changes in a statute that is represented in this Act by text
4 that is not yet or no longer in effect (for example, a Section
5 represented by multiple versions), the use of that text does
6 not accelerate or delay the taking effect of (i) the changes
7 made by this Act or (ii) provisions derived from any other
8 Public Act."