

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Sections 304, 305, 307, 308, 502, and 709.5 as  
6 follows:

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

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

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

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

6 (1) Property factor.

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

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

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

26 (2) Payroll factor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23           (B) Also included in duty days are game  
24 days, practice days, days spent at team  
25 meetings, promotional caravans, preseason  
26 training camps, and days served with the team

1 through all post-season games in which the team  
2 competes or is scheduled to compete.

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

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

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

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

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

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

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

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

1 contract or option year buy-out payments,  
2 expansion or relocation payments, or any other  
3 payments not related to services performed for the  
4 team.

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

22 (3) Sales factor.

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



1           (B) Sales of tangible personal property are in this  
2 State if:

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

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

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

25           (i) Gross receipts from the licensing, sale, or  
26 other disposition of a patent, copyright, trademark,

1           or similar item of intangible personal property, other  
2           than gross receipts governed by paragraph (B-7) of this  
3           item (3), are in this State to the extent the item is  
4           utilized in this State during the year the gross  
5           receipts are included in gross income.

6           (ii) Place of utilization.

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

21          (II) A copyright is utilized in a state to the  
22          extent that printing or other publication  
23          originates in the state. If a copyright is utilized  
24          in more than one state, the extent to which it is  
25          utilized in any one state shall be a fraction equal  
26          to the gross receipts from sales or licenses of

1 materials printed or published in that state  
2 divided by the total of such gross receipts for all  
3 states in which the copyright is utilized.

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

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

17 (B-2) Gross receipts from the license, sale, or other  
18 disposition of patents, copyrights, trademarks, and  
19 similar items of intangible personal property, other than  
20 gross receipts governed by paragraph (B-7) of this item  
21 (3), may be included in the numerator or denominator of the  
22 sales factor only if gross receipts from licenses, sales,  
23 or other disposition of such items comprise more than 50%  
24 of the taxpayer's total gross receipts included in gross  
25 income during the tax year and during each of the 2  
26 immediately preceding tax years; provided that, when a

1 taxpayer is a member of a unitary business group, such  
2 determination shall be made on the basis of the gross  
3 receipts of the entire unitary business group.

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

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

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

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

22 "Call-by-call Basis" means any method of charging  
23 for telecommunications services where the price is  
24 measured by individual calls.

25 "Communications Channel" means a physical or  
26 virtual path of communications over which signals are

1 transmitted between or among customer channel  
2 termination points.

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

9 "Customer Channel Termination Point" means the  
10 location where the customer either inputs or receives  
11 the communications.

12 "Detailed telecommunications billing service"  
13 means an "ancillary service" of separately stating  
14 information pertaining to individual calls on a  
15 customer's billing statement.

16 "Directory assistance" means an "ancillary  
17 service" of providing telephone number information,  
18 and/or address information.

19 "Home service provider" means the facilities based  
20 carrier or reseller with which the customer contracts  
21 for the provision of mobile telecommunications  
22 services.

23 "Mobile telecommunications service" means  
24 commercial mobile radio service, as defined in Section  
25 20.3 of Title 47 of the Code of Federal Regulations as  
26 in effect on June 1, 1999.

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

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

21          "Prepaid telecommunication service" means the  
22          right to access exclusively telecommunications  
23          services, which must be paid for in advance and which  
24          enables the origination of calls using an access number  
25          or authorization code, whether manually or  
26          electronically dialed, and that is sold in

1           predetermined units or dollars of which the number  
2           declines with use in a known amount.

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

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

20          "Service address" means:

21                 (a) The location of the telecommunications  
22                 equipment to which a customer's call is charged and  
23                 from which the call originates or terminates,  
24                 regardless of where the call is billed or paid;

25                 (b) If the location in line (a) is not known,  
26                 service address means the origination point of the

1 signal of the telecommunications services first  
2 identified by either the seller's  
3 telecommunications system or in information  
4 received by the seller from its service provider  
5 where the system used to transport such signals is  
6 not that of the seller; and

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

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

23 (a) Data processing and information services  
24 that allow data to be generated, acquired, stored,  
25 processed, or retrieved and delivered by an  
26 electronic transmission to a purchaser when such



1 purchaser's primary purpose for the underlying  
2 transaction is the processed data or information;

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

5 (c) Tangible personal property;

6 (d) Advertising, including but not limited to  
7 directory advertising.

8 (e) Billing and collection services provided  
9 to third parties;

10 (f) Internet access service;

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

21 (h) "Ancillary services"; or

22 (i) Digital products "delivered  
23 electronically", including but not limited to  
24 software, music, video, reading materials or ring  
25 tones.

26 "Vertical service" means an "ancillary service"

1           that is offered in connection with one or more  
2           "telecommunications services", which offers advanced  
3           calling features that allow customers to identify  
4           callers and to manage multiple calls and call  
5           connections, including "conference bridging services".

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

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

15                 (a) The call both originates and terminates in  
16                 this State.

17                 (b) The call either originates or terminates  
18                 in this State and the service address is located in  
19                 this State.

20          (iii) Receipts from the sale of postpaid  
21          telecommunications service at retail are in this State  
22          if the origination point of the telecommunication  
23          signal, as first identified by the service provider's  
24          telecommunication system or as identified by  
25          information received by the seller from its service  
26          provider if the system used to transport

1 telecommunication signals is not the seller's, is  
2 located in this State.

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

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

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

16 (b) 100% of receipts from charges for the total  
17 channel mileage between each channel termination  
18 point in this State.

19 (c) 50% of the total receipts from charges for  
20 service segments when those segments are between 2  
21 customer channel termination points, 1 of which is  
22 located in this State and the other is located  
23 outside of this State, which segments are  
24 separately charged.

25 (d) The receipts from charges for service  
26 segments with a channel termination point located

1           in this State and in two or more other states, and  
2           which segments are not separately billed, are in  
3           this State based on a percentage determined by  
4           dividing the number of customer channel  
5           termination points in this State by the total  
6           number of customer channel termination points.

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

16          (vii) Receipts to access a carrier's network or  
17          from the sale of telecommunication services or  
18          ancillary services for resale are in this State as  
19          follows:

20                 (a) 100% of the receipts from access fees  
21                 attributable to intrastate telecommunications  
22                 service that both originates and terminates in  
23                 this State.

24                 (b) 50% of the receipts from access fees  
25                 attributable to interstate telecommunications  
26                 service if the interstate call either originates

1 or terminates in this State.

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

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

20 (B-7) For taxable years ending on or after December 31,  
21 2008, receipts from the sale of broadcasting services are  
22 in this State if the broadcasting services are received in  
23 this State. For purposes of this paragraph (B-7), the  
24 following terms have the following meanings:

25 "Advertising revenue" means consideration received  
26 by the taxpayer in exchange for broadcasting services

1 or allowing the broadcasting of commercials or  
2 announcements in connection with the broadcasting of  
3 film or radio programming, from sponsorships of the  
4 programming, or from product placements in the  
5 programming.

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

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

23 "Film" or "film programming" means the broadcast  
24 on television of any and all performances, events, or  
25 productions, including but not limited to news,  
26 sporting events, plays, stories, or other literary,

1 commercial, educational, or artistic works, either  
2 live or through the use of video tape, disc, or any  
3 other type of format or medium. Each episode of a  
4 series of films produced for television shall  
5 constitute separate "film" notwithstanding that the  
6 series relates to the same principal subject and is  
7 produced during one or more tax periods.

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

20 (i) In the case of advertising revenue from  
21 broadcasting, the customer is the advertiser and  
22 the service is received in this State if the  
23 commercial domicile of the advertiser is in this  
24 State.

25 (ii) In the case where film or radio  
26 programming is broadcast by a station, a network,

1 or a cable system for a fee or other remuneration  
2 received from the recipient of the broadcast, the  
3 portion of the service that is received in this  
4 State is measured by the portion of the recipients  
5 of the broadcast located in this State.  
6 Accordingly, the fee or other remuneration for  
7 such service that is included in the Illinois  
8 numerator of the sales factor is the total of those  
9 fees or other remuneration received from  
10 recipients in Illinois. For purposes of this  
11 paragraph, a taxpayer may determine the location  
12 of the recipients of its broadcast using the  
13 address of the recipient shown in its contracts  
14 with the recipient or using the billing address of  
15 the recipient in the taxpayer's records.

16 (iii) In the case where film or radio  
17 programming is broadcast by a station, a network,  
18 or a cable system for a fee or other remuneration  
19 from the person providing the programming, the  
20 portion of the broadcast service that is received  
21 by such station, network, or cable system in this  
22 State is measured by the portion of recipients of  
23 the broadcast located in this State. Accordingly,  
24 the amount of revenue related to such an  
25 arrangement that is included in the Illinois  
26 numerator of the sales factor is the total fee or



1           other total remuneration from the person providing  
2           the programming related to that broadcast  
3           multiplied by the Illinois audience factor for  
4           that broadcast.

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

18          (v) In the case where film or radio programming  
19          is provided by a taxpayer that is not a network or  
20          station to another person for broadcasting in  
21          exchange for a fee or other remuneration from that  
22          person, the broadcasting service is received at  
23          the location of the office of the customer from  
24          which the services were ordered in the regular  
25          course of the customer's trade or business.  
26          Accordingly, in such a case the revenue derived by

1           the taxpayer that is included in the taxpayer's  
2           Illinois numerator of the sales factor is the  
3           revenue from such customers who receive the  
4           broadcasting service in Illinois.

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

8           (i) The income-producing activity is performed in  
9           this State; or

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

15           (C-5) For taxable years ending on or after December 31,  
16           2008, sales, other than sales governed by paragraphs (B),  
17           (B-1), (B-2), (B-5), and (B-7), are in this State if any of  
18           the following criteria are met:

19           (i) Sales from the sale or lease of real property  
20           are in this State if the property is located in this  
21           State.

22           (ii) Sales from the lease or rental of tangible  
23           personal property are in this State if the property is  
24           located in this State during the rental period. Sales  
25           from the lease or rental of tangible personal property  
26           that is characteristically moving property, including,

1 but not limited to, motor vehicles, rolling stock,  
2 aircraft, vessels, or mobile equipment are in this  
3 State to the extent that the property is used in this  
4 State.

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

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

24 (b) in all other cases, if the  
25 income-producing activity of the taxpayer is  
26 performed in this State or, if the

1 income-producing activity of the taxpayer is  
2 performed both within and without this State, if a  
3 greater proportion of the income-producing  
4 activity of the taxpayer is performed within this  
5 State than in any other state, based on performance  
6 costs.

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

1           prescribing where specific types of service are  
2           received, including, but not limited to, publishing,  
3           and utility service.

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

13          (E) Paragraphs (B-1) and (B-2) shall apply to tax years  
14          ending on or after December 31, 1999, provided that a  
15          taxpayer may elect to apply the provisions of these  
16          paragraphs to prior tax years. Such election shall be made  
17          in the form and manner prescribed by the Department, shall  
18          be irrevocable, and shall apply to all tax years; provided  
19          that, if a taxpayer's Illinois income tax liability for any  
20          tax year, as assessed under Section 903 prior to January 1,  
21          1999, was computed in a manner contrary to the provisions  
22          of paragraphs (B-1) or (B-2), no refund shall be payable to  
23          the taxpayer for that tax year to the extent such refund is  
24          the result of applying the provisions of paragraph (B-1) or  
25          (B-2) retroactively. In the case of a unitary business  
26          group, such election shall apply to all members of such

1 group for every tax year such group is in existence, but  
2 shall not apply to any taxpayer for any period during which  
3 that taxpayer is not a member of such group.

4 (b) Insurance companies.

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

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

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

25 (c) Financial organizations.

26 (1) In general. For taxable years ending before

1 December 31, 2008, business income of a financial  
2 organization shall be apportioned to this State by  
3 multiplying such income by a fraction, the numerator of  
4 which is its business income from sources within this  
5 State, and the denominator of which is its business income  
6 from all sources. For the purposes of this subsection, the  
7 business income of a financial organization from sources  
8 within this State is the sum of the amounts referred to in  
9 subparagraphs (A) through (E) following, but excluding the  
10 adjusted income of an international banking facility as  
11 determined in paragraph (2):

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

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

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

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

22 (E) Any other gross income resulting from the  
23 operation as a financial organization within this  
24 State. In computing the amounts referred to in  
25 paragraphs (A) through (E) of this subsection, any  
26 amount received by a member of an affiliated group



1 (determined under Section 1504(a) of the Internal  
2 Revenue Code but without reference to whether any such  
3 corporation is an "includible corporation" under  
4 Section 1504(b) of the Internal Revenue Code) from  
5 another member of such group shall be included only to  
6 the extent such amount exceeds expenses of the  
7 recipient directly related thereto.

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

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

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

17 (i) The numerator shall be:

18 The average aggregate, determined on a  
19 quarterly basis, of the financial organization's  
20 loans to banks in foreign countries, to foreign  
21 domiciled borrowers (except where secured  
22 primarily by real estate) and to foreign  
23 governments and other foreign official  
24 institutions, as reported for its branches,  
25 agencies and offices within the state on its  
26 "Consolidated Report of Condition", Schedule A,

1 Lines 2.c., 5.b., and 7.a., which was filed with  
2 the Federal Deposit Insurance Corporation and  
3 other regulatory authorities, for the year 1980,  
4 minus

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

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

24 (C) Change to Consolidated Report of Condition and  
25 in Qualification. In the event the Consolidated Report  
26 of Condition which is filed with the Federal Deposit

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

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

1 organization's trade or business. The following examples  
2 are illustrative:

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

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

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

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

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

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

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

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

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

26 (1) Interest, dividends, net gains (but not

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

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

23 (B) The receipts factor shall include the  
24 amount by which interest, dividends, gains and  
25 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, exceed amounts paid in lieu of  
4 interest, amounts paid in lieu of dividends,  
5 and losses from such assets and activities.

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

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

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

1 purchased under resale agreements and  
2 securities sold under repurchase agreements  
3 attributable to this State and included in the  
4 numerator is determined by multiplying the  
5 amount described in subparagraph (A) of  
6 paragraph (1) of this subsection from such  
7 funds and such securities by a fraction, the  
8 numerator of which is the gross income from  
9 such funds and such securities 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 funds and such securities.

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



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

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

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

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

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

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

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

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

7           (4) (Blank).

8           (5) (Blank).

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

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

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

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

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

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

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

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

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

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

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

1 transportation by railroad, and

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

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

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

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

12 (A) relative railway operating income from total  
13 passenger and total freight service, as reported to the  
14 Surface Transportation Board, in the case of  
15 transportation by railroad; and

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

19 (4) For taxable years ending on or after December 31,  
20 2008, business income derived from furnishing airline  
21 transportation services shall be apportioned to this State  
22 by multiplying such income by a fraction, the numerator of  
23 which is the revenue miles of the person in this State, and  
24 the denominator of which is the revenue miles of the person  
25 everywhere. For purposes of this paragraph, a revenue mile  
26 is the transportation of one passenger or one net ton of

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

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

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

24 (1) Separate accounting;

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

26 (3) The inclusion of one or more additional factors



1           which will fairly represent the person's business  
2           activities or market in this State; or

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

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

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

11           (1) for tax years ending on or after December 31, 1998  
12          and before December 31, 1999, 16 2/3% of the property  
13          factor plus 16 2/3% of the payroll factor plus 66 2/3% of  
14          the sales factor;

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

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

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

1 equal to zero.

2 (Source: P.A. 96-763, eff. 8-25-09; 97-507, eff. 8-23-11;  
3 97-636, eff. 6-1-12.)

4 (35 ILCS 5/305) (from Ch. 120, par. 3-305)

5 Sec. 305. Allocation of Partnership Income by partnerships  
6 and partners other than residents.

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

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

25 (c) Allocation or apportionment of base income by

1 partnership. Base income of a partnership shall be allocated or  
2 apportioned to this State pursuant to Article 3, in the same  
3 manner as it is allocated or apportioned for any other  
4 nonresident.

5 (c-5) Taxable income of an investment partnership, as  
6 defined in Section 1501(a)(11.5) of this Act, that is  
7 distributable to a nonresident partner shall be treated as  
8 nonbusiness income and shall be allocated to the partner's  
9 state of residence (in the case of an individual) or commercial  
10 domicile (in the case of any other person). However, any income  
11 distributable to a nonresident partner shall be treated as  
12 business income and apportioned as if such income had been  
13 received directly by the partner if the partner has made an  
14 election under Section 1501(a)(1) of this Act to treat all  
15 income as business income or if such income is from investment  
16 activity:

17 (1) that is directly or integrally related to any other  
18 business activity conducted in this State by the  
19 nonresident partner (or any member of that partner's  
20 unitary business group);

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

24 (3) where assets of the investment partnership were  
25 acquired with working capital from a trade or business  
26 activity conducted in this State in which the nonresident

1 partner (or any member of that partner's unitary business  
2 group) owns an interest.

3 (c-10) Gain or loss on partnership interest. The amount of  
4 gain or loss realized by a nonresident partner upon the sale,  
5 exchange, abandonment, liquidation, or other disposition of an  
6 interest in a partnership (other than an investment  
7 partnership) included in net income of that partner shall be  
8 the total gain or loss multiplied by the apportionment factor  
9 of the partnership determined under Section 304 of this Act for  
10 the taxable year of the partnership in which the sale,  
11 exchange, abandonment, liquidation or other disposition  
12 occurs.

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

15 (Source: P.A. 93-840, eff. 7-30-04.)

16 (35 ILCS 5/307) (from Ch. 120, par. 3-307)

17 Sec. 307. Allocation of income by estate or trust  
18 beneficiaries other than residents. (a) Allocation of business  
19 income by beneficiaries other than residents. To the extent the  
20 business income of an estate or trust allocated or apportioned  
21 to this State in the possession of the estate or trust is  
22 deemed to have been paid, credited or distributed by the estate  
23 or trust under Section 306, the respective shares of  
24 beneficiaries of the estate or trust, other than residents, in  
25 such business income shall be taken into account by such

1 beneficiaries in proportion to their respective shares of the  
2 distributable net income of the estate or trust for its taxable  
3 year and allocated to this State.

4 (b) Allocation of nonbusiness income by beneficiaries  
5 other than residents. To the extent items of estate or trust  
6 income and deduction not taken into account in computing the  
7 business income of an estate or trust are deemed to have been  
8 paid, credited or distributed by the estate or trust under  
9 Section 306, the respective shares of beneficiaries of the  
10 estate or trust, other than residents, in such items shall be  
11 taken into account by such beneficiaries in proportion to their  
12 respective shares of the distributable net income of the estate  
13 or trust for its taxable year, and allocated as if such items  
14 had been paid, incurred or accrued directly to such  
15 beneficiaries in their separate capacities.

16 (c) Accumulation and capital gain distributions. In the  
17 event that, in any taxable year of a trust, the trust makes an  
18 accumulation distribution or a capital gain distribution (both  
19 as defined in Section 665 of the Internal Revenue Code), the  
20 total of the amounts which are included in the income of each  
21 beneficiary of such trust, other than a resident, under  
22 Sections 668 and 669 of the Internal Revenue Code shall be  
23 allocated to this State to the extent that the items of income  
24 included in such distribution were allocated or apportioned to  
25 this State in the hands of the trust.

26 (c-5) Gain or loss on interest in trust. The amount of gain

1 or loss realized by a nonresident beneficiary upon the sale,  
2 exchange, abandonment, liquidation or other disposition of an  
3 interest in a trust included in net income of that beneficiary  
4 shall be the total gain or loss multiplied by the apportionment  
5 factor of the trust determined under Section 304 of this Act  
6 for the taxable year of the trust in which the sale, exchange,  
7 abandonment, liquidation or other disposition occurs.

8 (d) Cross references. (1) For allocation of amounts  
9 received by nonresidents from certain employee trusts, see  
10 Section 301 (b) (2).

11 (2) For allocation of estate or trust income or deductions  
12 by residents, see Section 301 (a).

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

14 (35 ILCS 5/308) (from Ch. 120, par. 3-308)

15 Sec. 308. Allocation of Subchapter S Corporation Income by  
16 Subchapter S Corporations and Shareholders Other Than  
17 Residents. (a) Allocation of Subchapter S corporation business  
18 income by shareholders other than residents. The respective  
19 shares of shareholders other than residents in so much of the  
20 business income of the Subchapter S corporation as is allocated  
21 or apportioned to this State in the hands of the Subchapter S  
22 corporation shall be taken into account by such shareholder pro  
23 rata in accordance with the requirements of Section 1366 of the  
24 Internal Revenue Code for the Subchapter S corporation's  
25 taxable year and allocated to this State.

1 (b) Allocation of Subchapter S corporation nonbusiness  
2 income by shareholders other than residents. The respective  
3 share of shareholders other than residents in the items of  
4 Subchapter S corporation income and deduction not taken into  
5 account in computing the business income of the Subchapter S  
6 corporation shall be taken into account by such shareholders  
7 pro rata in accordance with the requirements of Section 1366 of  
8 the Internal Revenue Code for the corporation's taxable year,  
9 and allocated as if such items had been paid, incurred or  
10 accrued directly to such shareholders in their separate  
11 capacities.

12 (c) Allocation or apportionment of base income by the  
13 Subchapter S corporation. Base income of a Subchapter S  
14 corporation shall be allocated or apportioned to this State  
15 pursuant to this Article 3 in the same manner as it is  
16 allocated or apportioned for any other nonresident.

17 (c-5) Gain or loss on stock in a Subchapter S corporation.  
18 The amount of gain or loss realized by a nonresident  
19 shareholder upon the sale, exchange, abandonment, liquidation  
20 or other disposition of stock in a Subchapter S corporation  
21 included in net income of that shareholder shall be the total  
22 gain or loss multiplied by the apportionment factor of the  
23 Subchapter S corporation determined under Section 304 of this  
24 Act for the taxable year of the Subchapter S corporation in  
25 which the sale, exchange, abandonment, liquidation or other  
26 disposition occurs.

1 (d) This Section shall not apply to any corporation for  
2 which there is in effect a federal election to opt out of the  
3 provisions of the Subchapter S Revision Act of 1982 and have  
4 applied instead the prior federal Subchapter S rules as in  
5 effect on July 1, 1982.

6 (Source: P.A. 83-1352.)

7 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

8 Sec. 502. Returns and notices.

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

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

13 (2) in the case of a resident or in the case of a  
14 corporation which is qualified to do business in this  
15 State, for which such person is required to make a federal  
16 income tax return, regardless of whether such person is  
17 liable for a tax imposed by this Act. However, this  
18 paragraph shall not require a resident to make a return if  
19 such person has an Illinois base income of the basic amount  
20 in Section 204(b) or less and is either claimed as a  
21 dependent on another person's tax return under the Internal  
22 Revenue Code, or is claimed as a dependent on another  
23 person's tax return under this Act.

24 Notwithstanding the provisions of paragraph (1), a  
25 nonresident (other than, for taxable years ending on or after



1 December 31, 2011, a nonresident required to withhold tax under  
2 Section 709.5) whose Illinois income tax liability under  
3 subsections (a), (b), (c), and (d) of Section 201 of this Act  
4 is paid in full after taking into account the credits allowed  
5 under subsection (f) of this Section or allowed under Section  
6 709.5 of this Act shall not be required to file a return under  
7 this subsection (a).

8 (b) Fiduciaries and receivers.

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

13 (2) Individuals under a disability. If an individual is  
14 unable to make a return or notice required under this Act,  
15 the return or notice required of such individual shall be  
16 made by his duly authorized agent, guardian, fiduciary or  
17 other person charged with the care of the person or  
18 property of such individual.

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

22 (4) Receivers, trustees and assignees for  
23 corporations. In a case where a receiver, trustee in  
24 bankruptcy, or assignee, by order of a court of competent  
25 jurisdiction, by operation of law, or otherwise, has  
26 possession of or holds title to all or substantially all

1 the property or business of a corporation, whether or not  
2 such property or business is being operated, such receiver,  
3 trustee, or assignee shall make the returns and notices  
4 required of such corporation in the same manner and form as  
5 corporations are required to make such returns and notices.

6 (c) Joint returns by husband and wife.

7 (1) Except as provided in paragraph (3):

8 (A) if a husband and wife file a joint federal  
9 income tax return for a taxable year ending before  
10 December 31, 2009, they shall file a joint return under  
11 this Act for such taxable year and their liabilities  
12 shall be joint and several;

13 (B) if a husband and wife file a joint federal  
14 income tax return for a taxable year ending on or after  
15 December 31, 2009, they may elect to file separate  
16 returns under this Act for such taxable year. The  
17 election under this paragraph must be made on or before  
18 the due date (including extensions) of the return and,  
19 once made, shall be irrevocable. If no election is  
20 timely made under this paragraph for a taxable year:

21 (i) the couple must file a joint return under  
22 this Act for such taxable year,

23 (ii) their liabilities shall be joint and  
24 several, and

25 (iii) any overpayment for that taxable year  
26 may be withheld under Section 909 of this Act or

1           under Section 2505-275 of the Civil Administrative  
2           Code of Illinois and applied against a debt of  
3           either spouse without regard to the amount of the  
4           overpayment attributable to the other spouse; and

5           (C) if the federal income tax liability of either  
6           spouse is determined on a separate federal income tax  
7           return, they shall file separate returns under this  
8           Act.

9           (2) If neither spouse is required to file a federal  
10          income tax return and either or both are required to file a  
11          return under this Act, they may elect to file separate or  
12          joint returns and pursuant to such election their  
13          liabilities shall be separate or joint and several.

14          (3) If either husband or wife is a resident and the  
15          other is a nonresident, they shall file separate returns in  
16          this State on such forms as may be required by the  
17          Department in which event their tax liabilities shall be  
18          separate; but if they file a joint federal income tax  
19          return for a taxable year, they may elect to determine  
20          their joint net income and file a joint return for that  
21          taxable year under the provisions of paragraph (1) of this  
22          subsection as if both were residents and in such case,  
23          their liabilities shall be joint and several.

24          (4) Innocent spouses.

25                 (A) However, for tax liabilities arising and paid  
26                 prior to August 13, 1999, an innocent spouse shall be

1 relieved of liability for tax (including interest and  
2 penalties) for any taxable year for which a joint  
3 return has been made, upon submission of proof that the  
4 Internal Revenue Service has made a determination  
5 under Section 6013(e) of the Internal Revenue Code, for  
6 the same taxable year, which determination relieved  
7 the spouse from liability for federal income taxes. If  
8 there is no federal income tax liability at issue for  
9 the same taxable year, the Department shall rely on the  
10 provisions of Section 6013(e) to determine whether the  
11 person requesting innocent spouse abatement of tax,  
12 penalty, and interest is entitled to that relief.

13 (B) For tax liabilities arising on and after August  
14 13, 1999 or which arose prior to that date, but remain  
15 unpaid as of that date, if an individual who filed a  
16 joint return for any taxable year has made an election  
17 under this paragraph, the individual's liability for  
18 any tax shown on the joint return shall not exceed the  
19 individual's separate return amount and the  
20 individual's liability for any deficiency assessed for  
21 that taxable year shall not exceed the portion of the  
22 deficiency properly allocable to the individual. For  
23 purposes of this paragraph:

24 (i) An election properly made pursuant to  
25 Section 6015 of the Internal Revenue Code shall  
26 constitute an election under this paragraph,

1 provided that the election shall not be effective  
2 until the individual has notified the Department  
3 of the election in the form and manner prescribed  
4 by the Department.

5 (ii) If no election has been made under Section  
6 6015, the individual may make an election under  
7 this paragraph in the form and manner prescribed by  
8 the Department, provided that no election may be  
9 made if the Department finds that assets were  
10 transferred between individuals filing a joint  
11 return as part of a scheme by such individuals to  
12 avoid payment of Illinois income tax and the  
13 election shall not eliminate the individual's  
14 liability for any portion of a deficiency  
15 attributable to an error on the return of which the  
16 individual had actual knowledge as of the date of  
17 filing.

18 (iii) In determining the separate return  
19 amount or portion of any deficiency attributable  
20 to an individual, the Department shall follow the  
21 provisions in subsections (c) and (d) of Section  
22 6015 of the Internal Revenue Code.

23 (iv) In determining the validity of an  
24 individual's election under subparagraph (ii) and  
25 in determining an electing individual's separate  
26 return amount or portion of any deficiency under

1           subparagraph (iii), any determination made by the  
2           Secretary of the Treasury, by the United States Tax  
3           Court on petition for review of a determination by  
4           the Secretary of the Treasury, or on appeal from  
5           the United States Tax Court under Section 6015 of  
6           the Internal Revenue Code regarding criteria for  
7           eligibility or under subsection (d) of Section  
8           6015 of the Internal Revenue Code regarding the  
9           allocation of any item of income, deduction,  
10          payment, or credit between an individual making  
11          the federal election and that individual's spouse  
12          shall be conclusively presumed to be correct. With  
13          respect to any item that is not the subject of a  
14          determination by the Secretary of the Treasury or  
15          the federal courts, in any proceeding involving  
16          this subsection, the individual making the  
17          election shall have the burden of proof with  
18          respect to any item except that the Department  
19          shall have the burden of proof with respect to  
20          items in subdivision (ii).

21                 (v) Any election made by an individual under  
22          this subsection shall apply to all years for which  
23          that individual and the spouse named in the  
24          election have filed a joint return.

25                 (vi) After receiving a notice that the federal  
26          election has been made or after receiving an

1 election under subdivision (ii), the Department  
2 shall take no collection action against the  
3 electing individual for any liability arising from  
4 a joint return covered by the election until the  
5 Department has notified the electing individual in  
6 writing that the election is invalid or of the  
7 portion of the liability the Department has  
8 allocated to the electing individual. Within 60  
9 days (150 days if the individual is outside the  
10 United States) after the issuance of such  
11 notification, the individual may file a written  
12 protest of the denial of the election or of the  
13 Department's determination of the liability  
14 allocated to him or her and shall be granted a  
15 hearing within the Department under the provisions  
16 of Section 908. If a protest is filed, the  
17 Department shall take no collection action against  
18 the electing individual until the decision  
19 regarding the protest has become final under  
20 subsection (d) of Section 908 or, if  
21 administrative review of the Department's decision  
22 is requested under Section 1201, until the  
23 decision of the court becomes final.

24 (d) Partnerships. Every partnership having any base income  
25 allocable to this State in accordance with section 305(c) shall  
26 retain information concerning all items of income, gain, loss

1 and deduction; the names and addresses of all of the partners,  
2 or names and addresses of members of a limited liability  
3 company, or other persons who would be entitled to share in the  
4 base income of the partnership if distributed; the amount of  
5 the distributive share of each; and such other pertinent  
6 information as the Department may by forms or regulations  
7 prescribe. The partnership shall make that information  
8 available to the Department when requested by the Department.

9 (e) For taxable years ending on or after December 31, 1985,  
10 and before December 31, 1993, taxpayers that are corporations  
11 (other than Subchapter S corporations) having the same taxable  
12 year and that are members of the same unitary business group  
13 may elect to be treated as one taxpayer for purposes of any  
14 original return, amended return which includes the same  
15 taxpayers of the unitary group which joined in the election to  
16 file the original return, extension, claim for refund,  
17 assessment, collection and payment and determination of the  
18 group's tax liability under this Act. This subsection (e) does  
19 not permit the election to be made for some, but not all, of  
20 the purposes enumerated above. For taxable years ending on or  
21 after December 31, 1987, corporate members (other than  
22 Subchapter S corporations) of the same unitary business group  
23 making this subsection (e) election are not required to have  
24 the same taxable year.

25 For taxable years ending on or after December 31, 1993,  
26 taxpayers that are corporations (other than Subchapter S



1 corporations) and that are members of the same unitary business  
2 group shall be treated as one taxpayer for purposes of any  
3 original return, amended return which includes the same  
4 taxpayers of the unitary group which joined in filing the  
5 original return, extension, claim for refund, assessment,  
6 collection and payment and determination of the group's tax  
7 liability under this Act.

8 (f) For taxable years ending prior to December 31, 2014,  
9 the ~~The~~ Department may promulgate regulations to permit  
10 nonresident individual partners of the same partnership,  
11 nonresident Subchapter S corporation shareholders of the same  
12 Subchapter S corporation, and nonresident individuals  
13 transacting an insurance business in Illinois under a Lloyds  
14 plan of operation, and nonresident individual members of the  
15 same limited liability company that is treated as a partnership  
16 under Section 1501 (a)(16) of this Act, to file composite  
17 individual income tax returns reflecting the composite income  
18 of such individuals allocable to Illinois and to make composite  
19 individual income tax payments. For taxable years ending prior  
20 to December 31, 2014, the ~~The~~ Department may by regulation also  
21 permit such composite returns to include the income tax owed by  
22 Illinois residents attributable to their income from  
23 partnerships, Subchapter S corporations, insurance businesses  
24 organized under a Lloyds plan of operation, or limited  
25 liability companies that are treated as partnership under  
26 Section 1501(a)(16) of this Act, in which case such Illinois

1 residents will be permitted to claim credits on their  
2 individual returns for their shares of the composite tax  
3 payments. This paragraph of subsection (f) applies to taxable  
4 years ending on or after December 31, 1987 and ending prior to  
5 December 31, 2014.

6 For taxable years ending on or after December 31, 1999, the  
7 Department may, by regulation, ~~also~~ permit any persons  
8 transacting an insurance business organized under a Lloyds plan  
9 of operation to file composite returns reflecting the income of  
10 such persons allocable to Illinois and the tax rates applicable  
11 to such persons under Section 201 and to make composite tax  
12 payments and shall, by regulation, also provide that the income  
13 and apportionment factors attributable to the transaction of an  
14 insurance business organized under a Lloyds plan of operation  
15 by any person joining in the filing of a composite return  
16 shall, for purposes of allocating and apportioning income under  
17 Article 3 of this Act and computing net income under Section  
18 202 of this Act, be excluded from any other income and  
19 apportionment factors of that person or of any unitary business  
20 group, as defined in subdivision (a)(27) of Section 1501, to  
21 which that person may belong.

22 For taxable years ending on or after December 31, 2008,  
23 every nonresident shall be allowed a credit against his or her  
24 liability under subsections (a) and (b) of Section 201 for any  
25 amount of tax reported on a composite return and paid on his or  
26 her behalf under this subsection (f). Residents (other than

1 persons transacting an insurance business organized under a  
2 Lloyds plan of operation) may claim a credit for taxes reported  
3 on a composite return and paid on their behalf under this  
4 subsection (f) only as permitted by the Department by rule.

5 (f-5) For taxable years ending on or after December 31,  
6 2008, the Department may adopt rules to provide that, when a  
7 partnership or Subchapter S corporation has made an error in  
8 determining the amount of any item of income, deduction,  
9 addition, subtraction, or credit required to be reported on its  
10 return that affects the liability imposed under this Act on a  
11 partner or shareholder, the partnership or Subchapter S  
12 corporation may report the changes in liabilities of its  
13 partners or shareholders and claim a refund of the resulting  
14 overpayments, or pay the resulting underpayments, on behalf of  
15 its partners and shareholders.

16 (g) The Department may adopt rules to authorize the  
17 electronic filing of any return required to be filed under this  
18 Section.

19 (Source: P.A. 96-520, eff. 8-14-09; 97-507, eff. 8-23-11.)

20 (35 ILCS 5/709.5)

21 Sec. 709.5. Withholding by partnerships, Subchapter S  
22 corporations, and trusts.

23 (a) In general. For each taxable year ending on or after  
24 December 31, 2008, every partnership (other than a publicly  
25 traded partnership under Section 7704 of the Internal Revenue

1 Code or investment partnership), Subchapter S corporation, and  
2 trust must withhold from each nonresident partner,  
3 shareholder, or beneficiary (other than a partner,  
4 shareholder, or beneficiary who is exempt from tax under  
5 Section 501(a) of the Internal Revenue Code or under Section  
6 205 of this Act, who is included on a composite return filed by  
7 the partnership or Subchapter S corporation for the taxable  
8 year under subsection (f) of Section 502 of this Act), or who  
9 is a retired partner, to the extent that partner's  
10 distributions are exempt from tax under Section 203(a)(2)(F) of  
11 this Act) an amount equal to the sum distributable share of (i)  
12 the share of business income of the partnership, Subchapter S  
13 corporation, or trust apportionable to Illinois plus (ii) for  
14 taxable years ending on or after December 31, 2014, the share  
15 of nonbusiness income of the partnership, Subchapter S  
16 corporation, or trust allocated to Illinois under Section 303  
17 of this Act (other than an amount allocated to the commercial  
18 domicile of the taxpayer under Section 303 of this Act) that is  
19 distributable to ~~of~~ that partner, shareholder, or beneficiary  
20 under Sections 702 and 704 and Subchapter S of the Internal  
21 Revenue Code, whether or not distributed, (iii) multiplied by  
22 the applicable rates of tax for that partner, ~~or~~ shareholder,  
23 or beneficiary under subsections (a) through (d) of Section 201  
24 of this Act, and (iv) net of the share of any credit under  
25 Article 2 of this Act that is distributable by the partnership,  
26 Subchapter S corporation, or trust and allowable against the

1 tax liability of that partner, shareholder, or beneficiary for  
2 a taxable year ending on or after December 31, 2014.

3 (b) Credit for taxes withheld. Any amount withheld under  
4 subsection (a) of this Section and paid to the Department shall  
5 be treated as a payment of the estimated tax liability or of  
6 the liability for withholding under this Section of the  
7 partner, shareholder, or beneficiary to whom the income is  
8 distributable for the taxable year in which that person  
9 incurred a liability under this Act with respect to that  
10 income. The Department shall adopt rules pursuant to which a  
11 partner, shareholder, or beneficiary may claim a credit against  
12 its obligation for withholding under this Section for amounts  
13 withheld under this Section with respect to income  
14 distributable to it by a partnership, Subchapter S corporation,  
15 or trust and allowing its partners, shareholders, or  
16 beneficiaries to claim a credit under this subsection (b) for  
17 those withheld amounts.

18 (c) Exemption from withholding.

19 (1) A partnership, Subchapter S corporation, or trust  
20 shall not be required to withhold tax under subsection (a)  
21 of this Section with respect to any nonresident partner,  
22 shareholder, or beneficiary (other than an individual)  
23 from whom the partnership, S corporation, or trust has  
24 received a certificate, completed in the form and manner  
25 prescribed by the Department, stating that such  
26 nonresident partner, shareholder, or beneficiary shall:

1           (A) file all returns that the partner,  
2           shareholder, or beneficiary is required to file under  
3           Section 502 of this Act and make timely payment of all  
4           taxes imposed under Section 201 of this Act or under  
5           this Section on the partner, shareholder, or  
6           beneficiary with respect to income of the partnership,  
7           S corporation, or trust; and

8           (B) be subject to personal jurisdiction in this  
9           State for purposes of the collection of income taxes,  
10          together with related interest and penalties, imposed  
11          on the partner, shareholder, or beneficiary with  
12          respect to the income of the partnership, S  
13          corporation, or trust.

14          (2) The Department may revoke the exemption provided by  
15          this subsection (c) at any time that it determines that the  
16          nonresident partner, shareholder, or beneficiary is not  
17          abiding by the terms of the certificate. The Department  
18          shall notify the partnership, S corporation, or trust that  
19          it has revoked a certificate by notice left at the usual  
20          place of business of the partnership, S corporation, or  
21          trust or by mail to the last known address of the  
22          partnership, S corporation, or trust.

23          (3) A partnership, S corporation, or trust that  
24          receives a certificate under this subsection (c) properly  
25          completed by a nonresident partner, shareholder, or  
26          beneficiary shall not be required to withhold any amount

1 from that partner, shareholder, or beneficiary, the  
2 payment of which would be due under Section 711(a-5) of  
3 this Act after the receipt of the certificate and no  
4 earlier than 60 days after the Department has notified the  
5 partnership, S corporation, or trust that the certificate  
6 has been revoked.

7 (4) Certificates received by a the partnership, S  
8 corporation, or trust under this subsection (c) must be  
9 retained by the partnership, S corporation, or trust and a  
10 record of such certificates must be provided to the  
11 Department, in a format in which the record is available  
12 for review by the Department, upon request by the  
13 Department. The Department may, by rule, require the record  
14 of certificates to be maintained and provided to the  
15 Department electronically.

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