ILLINOIS INCOME TAX ACT
AS AMENDED THROUGH PUBLIC ACT 98-1098

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AN ACT to impose a tax on the privilege of earning or receiving income in or as a resident of the State of Illinois.

(35 ILCS 5/101 et seq.) (from Ch. 120, par. 1-101 et seq.)

Cite: 35 ILCS 5/101 et seq. From: Ch. 120, par. 1-101 et seq. Source: P.A. 76-261. Date: Approved July 1, 1969. Short title: Illinois Income Tax Act.

ARTICLE 1. SHORT TITLE AND CONSTRUCTION.

Sec. 101. Short Title.

This Act shall be known and may be cited as the "Illinois Income Tax Act." (Source: P.A. 76-261.)

Sec. 102. Construction.

Except as otherwise expressly provided or clearly appearing from the context, any term used in this Act shall have the same meaning as when used in a comparable context in the United States Internal Revenue Code of 1954 or any successor law or laws relating to federal income taxes and other provisions of the statutes of the United States relating to federal income taxes as such Code, laws and statutes are in effect for the taxable year. (Source: P.A. 77-726.)

Sec. 103. Renumbered Internal Revenue Code Provisions.

If a provision of the United States Internal Revenue Code is specifically mentioned by number in a provision of this Act and if after the effective date of the legislation that established such reference the Internal Revenue Code provision thus referred to is, by amendment, renumbered without any other change whatever being made to it, then the provision of this Act containing such reference shall be construed as though the renumbering of the provision of the United States Internal Revenue Code had not occurred. (Source: P.A. 86-678.)

ARTICLE 2. TAX IMPOSED

Sec. 201. Tax Imposed.

(a) In general. A tax measured by net income is hereby imposed on every individual, corporation, trust and estate for each taxable year ending after July 31, 1969 on the privilege of earning or receiving income in or as a resident of this State. Such tax shall be in addition to all other occupation or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.

(b) Rates. The tax imposed by subsection (a) of this Section shall be determined as follows, except as adjusted by subsection (d-1):

(1) In the case of an individual, trust or estate, for taxable years ending prior to July 1, 1989, an amount equal to 2 1/2% of the taxpayer's net income for the taxable year.

(2) In the case of an individual, trust or estate, for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of (i) 2 1/2% of the taxpayer's net income for the period prior to July 1, 1989, as calculated under Section 202.3, and (ii) 3% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(3) In the case of an individual, trust or estate, for taxable years beginning after June 30, 1989, and ending prior to January 1, 2011, an amount equal to 3% of the taxpayer's net income for the taxable year.

(4) In the case of an individual, trust, or estate, for taxable years beginning prior to January 1, 2011, and ending after December 31, 2010, an amount equal to the sum of (i) 3% of the taxpayer's net income for the period prior to January 1, 2011, as calculated under Section 202.5, and (ii) 5% of the taxpayer's net income for the period after December 31, 2010, as calculated under Section 202.5.

(5) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2011, and ending prior to January 1, 2015, an amount equal to 5% of the taxpayer's net income for the taxable year.

(5.1) In the case of an individual, trust, or estate, for taxable years beginning prior to January 1, 2015, and ending after December 31, 2014, an amount equal to the sum of (i) 5% of the taxpayer's net income for the period prior to January 1, 2015, as calculated under Section 202.5, and (ii) 3.75% of the taxpayer's net income for the period after December 31, 2014, as calculated under Section 202.5.

(5.2) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2015, and ending prior to January 1, 2025, an amount equal to 3.75% of the taxpayer's net income for the taxable year.

(5.3) In the case of an individual, trust, or estate, for taxable years beginning prior to January 1, 2025, and ending after December 31, 2024, an amount equal to the sum of (i) 3.75% of the taxpayer's net income for the period prior to January 1, 2025, as calculated under Section 202.5, and (ii) 3.25% of the taxpayer's net income for the

period after December 31, 2024, as calculated under Section 202.5.

(5.4) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2025, an amount equal to 3.25% of the taxpayer's net income for the taxable year.

(6) In the case of a corporation, for taxable years ending prior to July 1, 1989, an amount equal to 4% of the taxpayer's net income for the taxable year.

(7) In the case of a corporation, for taxable years beginning prior to July 1, 1989 and ending after June 30, 1989, an amount equal to the sum of (i) 4% of the taxpayer's net income for the period prior to July 1, 1989, as calculated under Section 202.3, and (ii) 4.8% of the taxpayer's net income for the period after June 30, 1989, as calculated under Section 202.3.

(8) In the case of a corporation, for taxable years beginning after June 30, 1989, and ending prior to January 1, 2011, an amount equal to 4.8% of the taxpayer's net income for the taxable year.

(9) In the case of a corporation, for taxable years beginning prior to January 1, 2011, and ending after December 31, 2010, an amount equal to the sum of (i) 4.8% of the taxpayer's net income for the period prior to January 1, 2011, as calculated under Section 202.5, and (ii) 7% of the taxpayer's net income for the period after December 31, 2010, as calculated under Section 202.5.

(10) In the case of a corporation, for taxable years beginning on or after January 1, 2011, and ending prior to January 1, 2015, an amount equal to 7% of the taxpayer's net income for the taxable year.

(11) In the case of a corporation, for taxable years beginning prior to January 1, 2015, and ending after December 31, 2014, an amount equal to the sum of (i) 7% of the taxpayer's net income for the period prior to January 1, 2015, as calculated under Section 202.5, and (ii) 5.25% of the taxpayer's net income for the period after December 31, 2014, as calculated under Section 202.5.

(12) In the case of a corporation, for taxable years beginning on or after January 1, 2015, and ending prior to January 1, 2025, an amount equal to 5.25% of the taxpayer's net income for the taxable year.

(13) In the case of a corporation, for taxable years beginning prior to January 1, 2025, and ending after December 31, 2024, an amount equal to the sum of (i) 5.25% of the taxpayer's net income for the period prior to January 1, 2025, as calculated under Section 202.5, and (ii) 4.8% of the taxpayer's net income for the period after December 31, 2024, as calculated under Section 202.5.

(14) In the case of a corporation, for taxable years beginning on or after January 1, 2025, an amount equal to 4.8% of the taxpayer's net income for the taxable year. The rates under this subsection (b) are subject to the provisions of Section 201.5.

(c) Personal Property Tax Replacement Income Tax. Beginning on July 1, 1979 and thereafter, in addition to such income tax, there is also hereby imposed the Personal Property Tax Replacement Income Tax measured by net income on every corporation (including Subchapter S corporations), partnership and trust, for each taxable year ending after June 30, 1979. Such taxes are imposed on the privilege of earning or receiving income in or as a resident of this State. The Personal Property Tax Replacement Income Tax shall be in addition to the income tax imposed by subsections (a) and (b) of this Section and in addition to all other occupation or privilege taxes imposed by this State or by any municipal corporation or political subdivision thereof.

(d) Additional Personal Property Tax Replacement Income Tax Rates. The personal property tax replacement income tax imposed by this subsection and subsection (c) of this Section in the case of a corporation, other than a Subchapter S corporation and except as adjusted by subsection (d-1), shall be an additional amount equal to 2.85% of such taxpayer's net income for the taxable year, except that beginning on January 1, 1981, and thereafter, the rate of 2.85% specified in this subsection shall be reduced to 2.5%, and in the case of a partnership, trust or a Subchapter S corporation shall be an additional amount equal to 1.5% of such taxpayer's net income for the taxable year.

(d-1) Rate reduction for certain foreign insurers. In the case of a foreign insurer, as defined by Section 35A-5 of the Illinois Insurance Code, whose state or country of domicile imposes on insurers domiciled in Illinois a retaliatory tax (excluding any insurer whose premiums from reinsurance assumed are 50% or more of its total insurance premiums as determined under paragraph

(2) of subsection (b) of Section 304, except that for purposes of this determination premiums from reinsurance do not include premiums from inter-affiliate reinsurance arrangements), beginning with taxable years ending on or after December 31, 1999, the sum of the rates of tax imposed by subsections (b) and (d) shall be reduced (but not increased) to the rate at which the total amount of tax imposed under this Act, net of all credits allowed under this Act, shall equal (i) the total amount of tax that would be imposed on the foreign insurer's net income allocable to Illinois for the taxable year by such foreign insurer's state or country of domicile if that net income were subject to all income taxes and taxes measured by net income imposed by such foreign insurer's state or country of domicile, net of all credits allowed or (ii) a rate of zero if no such tax is imposed on such income by the foreign insurer's state of domicile. For the purposes of this subsection (d-1), an inter-affiliate includes a mutual insurer under common management.

(1) For the purposes of subsection (d-1), in no event shall the sum of the rates of tax imposed by subsections (b) and (d) be reduced below the rate at which the sum of:

(A) the total amount of tax imposed on such foreign insurer under this Act for a taxable year, net of all credits allowed under this Act, plus

(B) the privilege tax imposed by Section 409 of the Illinois Insurance Code, the fire insurance company tax imposed by Section 12 of the Fire Investigation Act, and the fire department taxes imposed under Section 11-10-1 of the Illinois Municipal Code, equals 1.25% for taxable years ending prior to December 31, 2003, or 1.75% for taxable years ending on or after December 31, 2003, of the net taxable premiums written for the taxable year, as described by subsection (1) of Section 409 of the Illinois Insurance Code. This paragraph will in no event increase the rates imposed under subsections (b) and (d).

(2) Any reduction in the rates of tax imposed by this subsection shall be applied first against the rates imposed by subsection (b) and only after the tax imposed by subsection (a) net of all credits allowed under this Section other than the credit allowed under subsection (i) has been reduced to zero, against the rates imposed by subsection (d).

This subsection (d-1) is exempt from the provisions of Section 250.

(e) Investment credit. A taxpayer shall be allowed a credit against the Personal Property Tax Replacement Income Tax for investment in qualified property.

(1) A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984. There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. The provisions added to this Section by Public Act 85-1200 (and restored by Public Act 87-895) shall be construed as declaratory of existing law and not as a new enactment. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and the denominator of which is 1%, but shall not exceed .5%. The investment credit shall not be allowed to the extent that it would reduce a taxpayer's liability in any tax year below zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. For tax years ending on or after December 31, 1987, and on or before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years if the taxpayer (i) makes investments which cause the creation of a minimum of 2,000 full-time equivalent jobs in Illinois, (ii) is located in an enterprise zone established pursuant to the Illinois Enterprise Zone Act and (iii) is certified by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) as complying with the requirements specified in clause (i) and (ii) by July 1, 1986. The Department of Commerce and Community Affairs (now Department of Commerce and Economic

Opportunity) shall notify the Department of Revenue of all such certifications immediately. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

(2) The term "qualified property" means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings and signs that are real property, but not including land or improvements to real property that are not a structural component of a building such as landscaping, sewer lines, local access roads, fencing, parking lots, and other appurtenances;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (e);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code;

(D) is used in Illinois by a taxpayer who is primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing, or was placed in service on or after July 1, 2006 in a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act; and

(E) has not previously been used in Illinois in such a manner and by such a person as would qualify for the credit provided by this subsection (e) or subsection (f).

(3) For purposes of this subsection (e), "manufacturing" means the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication, or assembling which changes some existing material into new shapes, new qualities, or new combinations. For purposes of this subsection (e) the term "mining" shall have the same meaning as the term "mining" in Section 613(c) of the Internal Revenue Code. For purposes of this subsection (e), the term "retailing" means the sale of tangible personal property for use or consumption and not for resale, or services rendered in conjunction with the sale of tangible personal property for use or consumption and not for resale. For purposes of this subsection (e), "tangible personal property" has the same meaning as when that term is used in the Retailers' Occupation Tax Act, and, for taxable years ending after December 31, 2008, does not include the generation, transmission, or distribution of electricity.

(4) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(5) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(6) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(7) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the Personal Property Tax Replacement Income Tax for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation and, (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (7), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(8) Unless the investment credit is extended by law, the basis of qualified property shall not include costs incurred after December 31, 2018, except for costs incurred pursuant to a binding contract entered into on or before December 31, 2018.

(9) Each taxable year ending before December 31, 2000, a partnership may elect to pass through to its partners the credits to which the partnership is entitled under this subsection (e) for the taxable year. A partner may use the credit

allocated to him or her under this paragraph only against the tax imposed in subsections (c) and (d) of this Section. If the partnership makes that election, those credits shall be allocated among the partners in the partnership in accordance with the rules set forth in Section 704(b) of the Internal Revenue Code, and the rules promulgated under that Section, and the allocated amount of the credits shall be allowed to the partners for that taxable year. The partnership shall make this election on its Personal Property Tax Replacement Income Tax return for that taxable year. The election to pass through the credits shall be irrevocable.

For taxable years ending on or after December 31, 2000, a partner that qualifies its partnership for a subtraction under subparagraph (I) of paragraph (2) of subsection (d) of Section 203 or a shareholder that qualifies a Subchapter S corporation for a subtraction under subparagraph (S) of paragraph (2) of subsection (b) of Section 203 shall be allowed a credit under this subsection (e) equal to its share of the credit earned under this subsection (e) during the taxable year by the partnership or Subchapter S corporation, determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. This paragraph is exempt from the provisions of Section 250.

(f) Investment credit; Enterprise Zone; River Edge Redevelopment Zone.

(1) A taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service in an Enterprise Zone created pursuant to the Illinois Enterprise Zone Act or, for property placed in service on or after July 1, 2006, a River Edge Redevelopment Zone established pursuant to the River Edge Redevelopment Zone Act. For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (f) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. The credit shall be .5% of the basis for such property. The credit shall be available only in the taxable year in which the property is placed in service in the Enterprise Zone or River Edge Redevelopment Zone and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1985, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (f);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code;

(D) is used in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer; and

(E) has not been previously used in Illinois in such a manner and by such a person as would qualify for the credit provided by this subsection (f) or subsection (e).

(3) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(6) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being

placed in service, or the situs of any qualified property is moved outside the Enterprise Zone or River Edge Redevelopment Zone within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(7) There shall be allowed an additional credit equal to 0.5% of the basis of qualified property placed in service during the taxable year in a River Edge Redevelopment Zone, provided such property is placed in service on or after July 1, 2006, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is 0.5% and the denominator of which is 1%, but shall not exceed 0.5%.

(g) (Blank)

(h) Investment credit; High Impact Business.

(1) Subject to subsections (b) and (b-5) of Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service by a Department of Commerce and Economic Opportunity designated High Impact Business. The credit shall be .5% of the basis for such property. The credit shall not be available (i) until the minimum investments in qualified property set forth in subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act have been satisfied or (ii) until the time authorized in subsection (b-5) of the Illinois Enterprise Zone Act for entities designated as High Impact Businesses under subdivisions (a)(3)(B), (a)(3)(C), and (a)(3)(D) of Section 5.5 of the Illinois Enterprise Zone Act, and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. The credit applicable to such investments shall be taken in the taxable year in which such investments have been completed. The credit for additional investments beyond the minimum investment by a designated high impact business authorized under subdivision (a)(3)(A) of Section 5.5 of the Illinois Enterprise Zone Act shall be available only in the taxable year in which the property is placed in service and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by subsections (a) and (b) of this Section to below zero. For tax years ending on or after December 31, 1987, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

Changes made in this subdivision (h)(1) by Public Act 88-670 restore changes made by Public Act 85-1182 and reflect existing law.

(2) The term qualified property means property which:

(A) is tangible, whether new or used, including buildings and structural components of buildings;

(B) is depreciable pursuant to Section 167 of the Internal Revenue Code, except that "3-year property" as defined in Section 168(c)(2)(A) of that Code is not eligible for the credit provided by this subsection (h);

(C) is acquired by purchase as defined in Section 179(d) of the Internal Revenue Code; and

(D) is not eligible for the Enterprise Zone Investment Credit provided by subsection (f) of this Section.

(3) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes.

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

(5) The term "placed in service" shall have the same meaning as under Section 46 of the Internal Revenue Code.

(6) If during any taxable year ending on or before December 31, 1996, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside Illinois within 48 months after being placed in service, the tax imposed under subsections (a) and (b) of this Section for such taxable year shall be increased. Such increase shall be determined by (i) recomputing the investment credit which would have been allowed for the year in which credit for such property was originally allowed by eliminating such property from such computation, and (ii) subtracting such recomputed credit from the amount of credit previously allowed. For the purposes of this paragraph (6), a reduction of the basis of qualified property resulting from a redetermination of the purchase price shall be deemed a disposition of qualified property to the extent of such reduction.

(7) Beginning with tax years ending after December 31, 1996, if a taxpayer qualifies for the credit under this subsection (h) and thereby is granted a tax abatement and the taxpayer relocates its entire facility in violation of the explicit terms and length of the contract under Section 18-183 of the Property Tax Code, the tax imposed under subsections (a) and (b) of this Section shall be increased for the taxable year in which the taxpayer relocated its facility by an amount equal to the amount of credit received by the taxpayer under this subsection (h).

(i) Credit for Personal Property Tax Replacement Income Tax. For tax years ending prior to December 31, 2003, a credit shall be allowed against the tax imposed by subsections (a) and (b) of this Section for the tax imposed by subsections (c) and (d) of this Section. This credit shall be computed by multiplying the tax imposed by subsections (c) and (d) of this Section by a fraction, the numerator of which is base income allocable to Illinois and the denominator of which is Illinois base income, and further multiplying the product by the tax rate imposed by subsections (a) and (b) of this Section.

Any credit earned on or after December 31, 1986 under this subsection which is unused in the year the credit is computed because it exceeds the tax liability imposed by subsections (a) and (b) for that year (whether it exceeds the original liability or the liability as later amended) may be carried forward and applied to the tax liability imposed by subsections (a) and (b) of the 5 taxable years following the excess credit year, provided that no credit may be carried forward to any year ending on or after December 31, 2003. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability the earliest credit arising under this subsection shall be applied first.

If, during any taxable year ending on or after December 31, 1986, the tax imposed by subsections (c) and (d) of this Section for which a taxpayer has claimed a credit under this subsection (i) is reduced, the amount of credit for such tax shall also be reduced. Such reduction shall be determined by recomputing the credit to take into account the reduced tax imposed by subsections (c) and (d). If any portion of the reduced amount of credit has been carried to a different taxable year, an amended return shall be filed for such taxable year to reduce the amount of credit claimed.

(j) Training expense credit. Beginning with tax years ending on or after December 31, 1986 and prior to December 31, 2003, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) under this Section for all amounts paid or accrued, on behalf of all persons employed by the taxpayer in Illinois or Illinois residents employed outside of Illinois by a taxpayer, for educational or vocational training in semi-technical or technical fields or semi-skilled or skilled fields, which were deducted from gross income in the computation of taxable income. The credit against the tax imposed by subsections (a) and (b) shall be 1.6% of such training expenses. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection (j) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

Any credit allowed under this subsection which is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first computed until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability the earliest credit arising under this subsection shall be applied first. No carryforward credit may be claimed in any tax year ending on or after December 31, 2003.

(k) Research and development credit.

For tax years ending after July 1, 1990 and prior to December 31, 2003, and beginning again for tax years ending on or after December 31, 2004, and ending prior to January 1, 2016, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for increasing research activities in this State. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

For purposes of this subsection, "qualifying expenditures" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under Section 41 of the Internal Revenue Code and which are conducted in this State, "qualifying expenditures for increasing research activities in this State" means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period, "qualifying expenditures for the base period" means the average of the qualifying expenditures for each year in the base period, and "base period" means the 3 taxable years immediately preceding the taxable year for which the determination is being made.

Any credit in excess of the tax liability for the taxable year may be carried forward. A taxpayer may elect to have the unused credit shown on its final completed return carried over as a credit against the tax liability for the following 5 taxable years or until it has been fully used, whichever occurs first; provided that no credit earned in a tax year ending prior to December 31, 2003 may be carried forward to any year ending on or after December 31, 2003.

If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year will be applied first against the tax liability for the given year. If a tax liability for the given year still remains, the credit from the next earliest year will then be applied, and so on, until all credits have been used or no tax liability for the given year remains. Any remaining unused credit or credits then will be carried forward to the next following year in which a tax liability is incurred, except that no credit can be carried forward to a year which is more than 5 years after the year in which the expense for which the credit is given was incurred.

No inference shall be drawn from this amendatory Act of the 91st General Assembly in construing this Section for taxable years beginning before January 1, 1999.

(l) Environmental Remediation Tax Credit.

(i) For tax years ending after December 31, 1997 and on or before December 31, 2001, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14 of the Environmental Protection Act that were paid in performing environmental remediation at a site for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. After the Pollution Control Board rules are adopted pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act, determinations as to credit availability for purposes of this Section

shall be made consistent with those rules. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of $100,000 per site, except that the $100,000 threshold shall not apply to any site contained in an enterprise zone as determined by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity). The total credit allowed shall not exceed $40,000 per year with a maximum total of $150,000 per site. For partners and shareholders of subchapter S corporations, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. The term "unused credit" does not include any amounts of unreimbursed eligible remediation costs in excess of the maximum credit per site authorized under paragraph (i). This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site" shall have the same meaning as under Section 58.2 of the Environmental Protection Act.

(m) Education expense credit. Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for qualified education expenses incurred on behalf of the qualifying pupils. The credit shall be equal to 25% of qualified education expenses, but in no event may the total credit under this subsection claimed by a family that is the custodian of qualifying pupils exceed $500. In no event shall a credit under this subsection reduce the taxpayer's liability under this Act to less than zero. This subsection is exempt from the provisions of Section 250 of this Act.

For purposes of this subsection:

"Qualifying pupils" means individuals who (i) are residents of the State of Illinois, (ii) are under the age of 21 at the close of the school year for which a credit is sought, and (iii) during the school year for which a credit is sought were full-time pupils enrolled in a kindergarten through twelfth grade education program at any school, as defined in this subsection.

"Qualified education expense" means the amount incurred on behalf of a qualifying pupil in excess of $250 for tuition, book fees, and lab fees at the school in which the pupil is enrolled during the regular school year.

"School" means any public or nonpublic elementary or secondary school in Illinois that is in compliance with Title VI of the Civil Rights Act of 1964 and attendance at which satisfies the requirements of Section 26-1 of the School Code, except that nothing shall be construed to require a child to attend any particular public or nonpublic school to qualify for the credit under this Section.

"Custodian" means, with respect to qualifying pupils, an Illinois resident who is a parent, the parents, a legal guardian, or the legal guardians of the qualifying pupils.

(n) River Edge Redevelopment Zone site remediation tax credit.

(i) For tax years ending on or after December 31, 2006, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this

Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14a of the Environmental Protection Act that were paid in performing environmental remediation at a site within a River Edge Redevelopment Zone for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. Determinations as to credit availability for purposes of this Section shall be made consistent with rules adopted by the Pollution Control Board pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of $100,000 per site.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

(iii) For purposes of this Section, the term "site" shall have the same meaning as under Section 58.2 of the Environmental Protection Act.

(o) For each of taxable years during the Compassionate Use of Medical Cannabis Pilot Program, a surcharge is imposed on all taxpayers on income arising from the sale or exchange of capital assets, depreciable business property, real property used in the trade or business, and Section 197 intangibles of an organization registrant under the Compassionate Use of Medical Cannabis Pilot Program Act. The amount of the surcharge is equal to the amount of federal income tax liability for the taxable year attributable to those sales and exchanges. The surcharge imposed does not apply if:

(1) the medical cannabis cultivation center registration, medical cannabis dispensary registration, or the property of a registration is transferred as a result of any of the following:

(A) bankruptcy, a receivership, or a debt adjustment initiated by or against the initial registration or the substantial owners of the initial registration;

(B) cancellation, revocation, or termination of any registration by the Illinois Department of Public Health;

(C) a determination by the Illinois Department of Public Health that transfer of the registration is in the best interests of Illinois qualifying patients as defined by the Compassionate Use of Medical Cannabis Pilot Program Act;

(D) the death of an owner of the equity interest in a registrant;

(E) the acquisition of a controlling interest in the stock or substantially all of the assets of a publicly traded company;

(F) a transfer by a parent company to a wholly owned subsidiary; or

(G) the transfer or sale to or by one person to another person where both persons were initial owners of the registration when the registration was issued; or

(2) the cannabis cultivation center registration, medical cannabis dispensary registration, or the controlling interest in a registrant's property is transferred in a transaction to lineal descendants in which no gain or loss is recognized or as a result of a transaction in accordance with Section 351 of the Internal Revenue Code in which no gain or loss is recognized.

Sec. 201.5. State spending limitation and tax reduction.

(a) If, beginning in State fiscal year 2012 and continuing through State fiscal year 2015, State spending for any fiscal year exceeds the State spending limitation set forth in subsection (b) of this Section, then the tax rates set forth in subsection (b) of Section 201 of this Act shall be reduced, according to the procedures set forth in this Section, to 3% of the taxpayer's net income for individuals, trusts, and estates and to 4.8% of the taxpayer's net income for corporations. For all taxable years following the taxable year in which the rate has been reduced pursuant to this Section, the tax rate set forth in subsection (b) of Section 201 of this Act shall be 3% of the taxpayer's net income for individuals, trusts, and estates and 4.8% of the taxpayer's net income for corporations.

(b) The State spending limitation for fiscal years 2012 through 2015 shall be as follows: (i) for fiscal year 2012, $36,818,000,000; (ii) for fiscal year 2013, $37,554,000,000; (iii) for fiscal year 2014, $38,305,000,000; and (iv) for fiscal year 2015, $39,072,000,000.

(c) Notwithstanding any other provision of law to the contrary, the Auditor General shall examine each Public Act authorizing State spending from State general funds and prepare a report no later than 30 days after receiving notification of the Public Act from the Secretary of State or 60 days after the effective date of the Public Act, whichever is earlier. The Auditor General shall file the report with the Secretary of State and copies with the Governor, the State Treasurer, the State Comptroller, the Senate, and the House of Representatives. The report shall indicate: (i) the amount of State spending set forth in the applicable Public Act; (ii) the total amount of State spending authorized by law for the applicable fiscal year as of the date of the report; and (iii) whether State spending exceeds the State spending limitation set forth in subsection (b). The Auditor General may examine multiple Public Acts in one consolidated report, provided that each Public Act is examined within the time period mandated by this subsection (c). The Auditor General shall issue reports in accordance with this Section through June 30, 2015 or the effective date of a reduction in the rate of tax imposed by subsections (a) and (b) of Section 201 of this Act pursuant to this Section, whichever is earlier.

At the request of the Auditor General, each State agency shall, without delay, make available to the Auditor General or his or her designated representative any record or information requested and shall provide for examination or copying all records, accounts, papers, reports, vouchers, correspondence, books and other documentation in the custody of that agency, including information stored in electronic data processing systems, which is related to or within the scope of a report prepared under this Section. The Auditor General shall report to the Governor each instance in which a State agency fails to cooperate promptly and fully with his or her office as required by this Section.

The Auditor General's report shall not be in the nature of a post-audit or examination and shall not lead to the issuance of an opinion as that term is defined in generally accepted government auditing standards.

(d) If the Auditor General reports that State spending has exceeded the State spending limitation set forth in subsection (b) and if the Governor has not been presented with a bill or bills passed by the General Assembly to reduce State spending to a level that does not exceed the State spending limitation within 45 calendar days of receipt of the Auditor General's report, then the Governor may, for the purpose of reducing State spending to a level that does not exceed the State spending limitation set forth in subsection (b), designate amounts to be set aside as a reserve from the amounts appropriated from the State general funds for all boards, commissions, agencies, institutions, authorities, colleges, universities, and bodies politic and corporate of the State, but not other constitutional officers, the legislative or judicial branch, the office of the Executive Inspector General, or the Executive Ethics Commission. Such a designation must be made within 15 calendar days after the end of that 45-day period. If the Governor designates amounts to be set aside as a reserve, the Governor shall give notice of the designation to the Auditor General, the State Treasurer, the State Comptroller, the Senate, and the House of Representatives. The amounts placed in reserves shall not be transferred, obligated, encumbered, expended, or otherwise

committed unless so authorized by law. Any amount placed in reserves is not State spending and shall not be considered when calculating the total amount of State spending. Any Public Act authorizing the use of amounts placed in reserve by the Governor is considered State spending, unless such Public Act authorizes the use of amounts placed in reserves in response to a fiscal emergency under subsection (g).

(e) If the Auditor General reports under subsection (c) that State spending has exceeded the State spending limitation set forth in subsection (b), then the Auditor General shall issue a supplemental report no sooner than the 61st day and no later than the 65th day after issuing the report pursuant to subsection (c). The supplemental report shall: (i) summarize details of actions taken by the General Assembly and the Governor after the issuance of the initial report to reduce State spending, if any, (ii) indicate whether the level of State spending has changed since the initial report, and (iii) indicate whether State spending exceeds the State spending limitation. The Auditor General shall file the report with the Secretary of State and copies with the Governor, the State Treasurer, the State Comptroller, the Senate, and the House of Representatives. If the supplemental report of the Auditor General provides that State spending exceeds the State spending limitation, then the rate of tax imposed by subsections (a) and (b) of Section 201 is reduced as provided in this Section beginning on the first day of the first month to occur not less than 30 days after issuance of the supplemental report.

(f) For any taxable year in which the rates of tax have been reduced under this Section, the tax imposed by subsections (a) and (b) of Section 201 shall be determined as follows:

(1) In the case of an individual, trust, or estate, the tax shall be imposed in an amount equal to the sum of (i) the rate applicable to the taxpayer under subsection (b) of Section 201 (without regard to the provisions of this Section) times the taxpayer's net income for any portion of the taxable year prior to the effective date of the reduction and (ii) 3% of the taxpayer's net income for any portion of the taxable year on or after the effective date of the reduction.

(2) In the case of a corporation, the tax shall be imposed in an amount equal to the sum of (i) the rate applicable to the taxpayer under subsection (b) of Section 201 (without regard to the provisions of this Section) times the taxpayer's net income for any portion of the taxable year prior to the effective date of the reduction and (ii) 4.8% of the taxpayer's net income for any portion of the taxable year on or after the effective date of the reduction.

(3) For any taxpayer for whom the rate has been reduced under this Section for a portion of a taxable year, the taxpayer shall determine the net income for each portion of the taxable year following the rules set forth in Section 202.5 of this Act, using the effective date of the rate reduction rather than the January 1 dates found in that Section, and the day before the effective date of the rate reduction rather than the December 31 dates found in that Section.

(4) If the rate applicable to the taxpayer under subsection (b) of Section 201 (without regard to the provisions of this Section) changes during a portion of the taxable year to which that rate is applied under paragraphs (1) or (2) of this subsection (f), the tax for that portion of the taxable year for purposes of paragraph (1) or (2) of this subsection (f) shall be determined as if that portion of the taxable year were a separate taxable year, following the rules set forth in Section 202.5 of this Act. If the taxpayer elects to follow the rules set forth in subsection (b) of Section 202.5, the taxpayer shall follow the rules set forth in subsection (b) of Section 202.5 for all purposes of this Section for that taxable year.

(g) Notwithstanding the State spending limitation set forth in subsection (b) of this Section, the Governor may declare a fiscal emergency by filing a declaration with the Secretary of State and copies with the State Treasurer, the State Comptroller, the Senate, and the House of Representatives. The declaration must be limited to only one State fiscal year, set forth compelling reasons for declaring a fiscal emergency, and request a specific dollar amount. Unless, within 10 calendar days of receipt of the Governor's declaration, the State Comptroller or State Treasurer notifies the Senate and the House of Representatives that he or she does not concur in the Governor's declaration, State spending authorized by law to address the fiscal emergency in an amount no greater than the dollar amount specified in the declaration shall not be considered "State spending" for purposes of the State spending limitation.

(h) As used in this Section:

"State general funds" means the General Revenue Fund, the Common School Fund, the General Revenue Common School Special

Account Fund, the Education Assistance Fund, and the Budget Stabilization Fund.

"State spending" means (i) the total amount authorized for spending by appropriation or statutory transfer from the State general funds in the applicable fiscal year, and (ii) any amounts the Governor places in reserves in accordance with subsection (d) that are subsequently released from reserves following authorization by a Public Act. For the purpose of this definition, "appropriation" means authority to spend money from a State general fund for a specific amount, purpose, and time period, including any supplemental appropriation or continuing appropriation, but does not include reappropriations from a previous fiscal year. For the purpose of this definition, "statutory transfer" means authority to transfer funds from one State general fund to any other fund in the State treasury, but does not include transfers made from one State general fund to another State general fund.

"State spending limitation" means the amount described in subsection (b) of this Section for the applicable fiscal year.

Sec. 202. Net Income Defined.

In general. For purposes of this Act, a taxpayer's net income for a taxable year shall be that portion of his base income for such year which is allocable to this State under the provisions of Article 3, less the standard exemption allowed by Section 204 and the deduction allowed by Section 207. (Source: P.A. 85-731.)

Sec. 202.3. Net Income Attributable To The Period Prior To July 1, 1989 And Net Income Attributable To The Period After June 30, 1989.

(a) In general. With respect to the taxable year of a taxpayer beginning prior to July 1, 1989 and ending after June 30, 1989, net income for the period after June 30, 1989 shall be that amount which bears the same ratio to the taxpayer's net income for the entire taxable year as the number of days in such year after June 30, 1989 bears to the total number of days in such year, and the net income for the period prior to July 1, 1989 shall be that amount which bears the same ratio to the taxpayer's net income for the entire taxable year as the number of days in such year prior to July 1, 1989 bears to the total number of days in such year.

(b) Election to attribute income and deduction items specifically to the respective portions of a taxable year prior to July 1, 1989 and after June 30, 1989. In the case of a taxpayer with a taxable year beginning prior to July 1, 1989 and ending after June 30, 1989, the taxpayer may elect, in lieu of the procedure established in subsection (a) of this Section, to determine net income on a specific accounting basis for the 2 portions of his taxable year:

(i) from the beginning of the taxable year through June 30, 1989, and

(ii) from July 1, 1989 through the end of the taxable year.

If the taxpayer elects specific accounting under this subsection, there shall be taken into account in computing base income for each of the 2 portions of the taxable year only those items earned, received, paid, incurred or accrued in each such period. The standard exemption provided by Section 204 shall be divided between the respective periods in amounts which bear the same ratio to the total exemption allowable under Section 204 (determined without regard to this Section) as the total number of days in each such period bears to the total number of days in the taxable year. The election provided by this subsection shall be made in such manner and at such time as the Department may by forms or regulations prescribe, but shall be made not later than the due date (including any extensions thereof) for the filing of the return for the taxable year, and shall be irrevocable. (Source: P.A. 86-18.)

Sec. 202.4. Net Income Attributable To The Period Prior To July 1, 1993 And Net Income Attributable To The Period After June 30, 1993.

(Section repealed). (Source: P.A. 86-18; 87-17; Section repealed by P.A. 88-89.)

Sec. 202.5. Net income attributable to the period beginning prior to January 1 of any year and ending after December 31 of the preceding year.

(a) In general. With respect to the taxable year of a taxpayer beginning prior to January 1 of any year and ending after December 31 of the preceding year, net income for the period after December 31 of the preceding year, is that amount that bears the same ratio to the taxpayer's net income for the entire taxable year as the number of days in that taxable year after December 31 bears to the total number of days in that taxable year, and

the net income for the period prior to January 1 is that amount that bears the same ratio to the taxpayer's net income for the entire taxable year as the number of days in that taxable year prior to January 1 bears to the total number of days in that taxable year.

(b) Election to attribute income and deduction items specifically to the respective portions of a taxable year prior to January 1 of any year and after December 31 of the preceding year. In the case of a taxpayer with a taxable year beginning prior to January 1 of any year and ending after December 31 of the preceding year, the taxpayer may elect, instead of the procedure established in subsection (a) of this Section, to determine net income on a specific accounting basis for the 2 portions of the taxable year:

(1) from the beginning of the taxable year through December 31; and

(2) from January 1 through the end of the taxable year.

The election provided by this subsection must be made in form and manner that the Department requires by rule, and must be made no later than the due date (including any extensions thereof) for the filing of the return for the taxable year, and is irrevocable.

(c) If the taxpayer elects specific accounting under subsection (b):

(1) there shall be taken into account in computing base income for each of the 2 portions of the taxable year only those items earned, received, paid, incurred or accrued in each such period;

(2) for purposes of apportioning business income of the taxpayer, the provisions in Article 3 shall be applied on the basis of the taxpayer's full taxable year, without regard to this Section;

(3) the net loss carryforward deduction for the taxable year under Section 207 may not exceed combined net income of both portions of the taxable year, and shall be used against the net income of the portion of the taxable year from the beginning of the taxable year through December 31 before any remaining amount is used against the net income of the latter portion of the taxable year.

Sec. 203. Base income defined.

(a) Individuals.

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

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

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

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

(C) An amount equal to the amount received during the taxable year as a recovery or refund of real property taxes paid with respect to the taxpayer's principal residence under the Revenue Act of 1939 and for which a deduction was previously taken under subparagraph (L) of this paragraph (2) prior to July 1, 1991, the retrospective application date of Article 4 of Public Act 87-17. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion of the total taxes for the entire property which is attributable to such principal residence;

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

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

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

(D-15) For taxable years 2001 and thereafter, an amount equal to the bonus

depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(D-16) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (Z) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (Z), then an amount equal to that subtraction modification.

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

(D-17) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

(D-18) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31,

2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

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

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

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

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

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

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

(D-19) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) or Section 203(a)(2)(D-18) of this Act.

(D-20) For taxable years beginning on or after January 1, 2002 and ending on or before December 31, 2006, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act or (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B). For taxable years beginning on or after January 1, 2007, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act, (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, or (iii) a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code that (I) adopts and determines that its offering materials comply with the College Savings Plans Network's disclosure principles and (II) has made reasonable efforts to inform in-state residents of the existence of in-state qualified tuition programs by informing Illinois residents directly and, where applicable, to inform financial intermediaries distributing the program to inform in-state residents of the existence of in-state qualified tuition programs at least annually, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B).

For the purposes of this subparagraph (D-20), a qualified tuition program has made reasonable efforts if it makes disclosures (which may use the term "in-state program" or "in-state plan" and need not specifically refer to Illinois or its qualified programs by name) (i) directly to prospective participants in its offering materials or makes a public disclosure, such as a website posting; and (ii) where applicable, to intermediaries selling the out-of-state program in the same manner that the out-of-state program distributes its offering materials;

(D-21) For taxable years beginning on or after January 1, 2007, in the case of transfer of moneys from a qualified tuition program under Section 529 of the Internal Revenue Code that is administered by the State to an out-of-state program, an amount equal to the amount of moneys previously deducted from base income under subsection (a)(2)(Y) of this Section;

(D-22) For taxable years beginning on or after January 1, 2009, in the case of a nonqualified withdrawal or refund of moneys from a qualified tuition program under Section 529 of the Internal Revenue Code administered by the State that is not used for qualified expenses at an eligible education institution, an amount equal to the contribution component of the nonqualified withdrawal or refund that was previously deducted from base income under subsection (a)(2)(y) of this Section, provided that the withdrawal or refund did not result from the beneficiary's death or disability;

(D-23) An amount equal to the credit allowable to the taxpayer under Section 218(a) of this Act, determined without regard to Section 218(c) of this Act;

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

(E) For taxable years ending before December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being on active duty in the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to Sections 502 and 503, Title 32, United States Code as a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. For taxable years ending on or after December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being a member of any component of the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or thereafter by reason of being a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. The provisions of this subparagraph (E) are exempt from the provisions of Section 250;

(F) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the

provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

(G) The valuation limitation amount;

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

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

(J) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act, and conducts substantially all of its operations in a River Edge Redevelopment Zone or zones. This subparagraph (J) is exempt from the provisions of Section 250;

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

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

(M) With the exception of any amounts subtracted under subparagraph (N), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code, plus, for taxable years ending on or after December 31, 2011, Section 45G(e)(3) of the Internal Revenue Code and, for taxable years ending on or after December 31, 2008, any amount included in gross income under Section 87 of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

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

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

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code or of any itemized deduction taken from adjusted gross income in the computation of taxable income for restoration of substantial amounts held under claim of right for the taxable year;

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

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

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

(T) An amount, to the extent included in adjusted gross income, equal to the amount of interest earned in the taxable year on a medical

care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 on behalf of the taxpayer, other than interest added pursuant to item (D-5) of this paragraph (2);

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

(V) Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 2004, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for that health insurance or long-term care insurance may be deducted under Section 213 of the Internal Revenue Code, has not been deducted on the federal income tax return of the taxpayer, and does not exceed the taxable income attributable to that taxpayer's income, self-employment income, or Subchapter S corporation income; except that no deduction shall be allowed under this item (V) if the taxpayer is eligible to participate in any health insurance or long-term care insurance plan of an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and long-term care insurance subtracted under this item (V) shall be determined by multiplying total health insurance and long-term care insurance premiums paid by the taxpayer times a number that represents the fractional percentage of eligible medical expenses under Section 213 of the Internal Revenue Code of 1986 not actually deducted on the taxpayer's federal income tax return;

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

(X) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(Y) For taxable years beginning on or after January 1, 2002 and ending on or before December 31, 2004, moneys contributed in the taxable year to a College Savings Pool account under Section 16.5 of the State Treasurer Act, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). For taxable years beginning on or after January 1, 2005, a maximum of $10,000 contributed in the taxable year to (i) a College Savings Pool account under Section 16.5 of the State Treasurer Act or (ii) the Illinois Prepaid Tuition Trust Fund, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). For purposes of this subparagraph, contributions made by an employer on behalf of an employee, or matching contributions made by an employee, shall be treated as made by the employee. This subparagraph (Y) is exempt from the provisions of Section 250;

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

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

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (Z) is exempt from the provisions of Section 250;

(AA) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (AA) is exempt from the provisions of Section 250;

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

(CC) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of that addition modification, and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of that addition modification. This subparagraph (CC) is exempt from the provisions of Section 250;

(DD) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-17) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (DD) is exempt from the provisions of Section 250;

(EE) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years

ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-18) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person. This subparagraph (EE) is exempt from the provisions of Section 250;

(FF) An amount equal to any amount awarded to the taxpayer during the taxable year by the Court of Claims under subsection (c) of Section 8 of the Court of Claims Act for time unjustly served in a State prison. This subparagraph (FF) is exempt from the provisions of Section 250; and ~~.~~

(GG) For taxable years ending on or after December 31, 2011, in the case of a taxpayer who was required to add back any insurance premiums under Section 203(a)(2)(D-19), such taxpayer may elect to subtract that part of a reimbursement received from the insurance company equal to the amount of the expense or loss (including expenses incurred by the insurance company) that would have been taken into account as a deduction for federal income tax purposes if the expense or loss had been uninsured. If a taxpayer makes the election provided for by this subparagraph (GG), the insurer to which the premiums were paid must add back to income the amount subtracted by the taxpayer pursuant to this subparagraph (GG). This subparagraph (GG) is exempt from the provisions of Section 250.

(b) Corporations.

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

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

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

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

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

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

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such earlier taxable year, with the following limitations applied in the order that they are listed:

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

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

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

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

(E-10) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(E-11) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (T) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (T), then an amount equal to that subtraction modification.

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

(E-12) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

(E-13) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

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

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

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

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

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

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

(E-14) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including

amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-12) or Section 203(b)(2)(E-13) of this Act;

(E-15) For taxable years beginning after December 31, 2008, any deduction for dividends paid by a captive real estate investment trust that is allowed to a real estate investment trust under Section 857(b)(2)(B) of the Internal Revenue Code for dividends paid;

(E-16) An amount equal to the credit allowable to the taxpayer under Section 218(a) of this Act, determined without regard to Section 218(c) of this Act;

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

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

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

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

(I) With the exception of any amounts subtracted under subparagraph (J), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(a)(2) and amounts disallowed as interest expense by Section 291(a)(3) of the Internal Revenue Code, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(a)(1) of the Internal Revenue Code; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and 832(b)(5)(B)(i) of the Internal Revenue Code, plus, for tax years ending on or after December 31, 2011, amounts disallowed as deductions by Section 45G(e)(3) of the Internal Revenue Code and, for taxable years ending on or after December 31, 2008, any amount included in gross income under Section 87 of the Internal Revenue Code and the policyholders' share of tax-exempt interest of a life insurance company under Section 807(a)(2)(B) of the Internal Revenue Code (in the case of a life insurance company with gross income from a decrease in reserves for the tax year) or Section 807(b)(1)(B) of the Internal Revenue Code (in the case of a life insurance company allowed a deduction for an increase in reserves for the tax year); the provisions of this subparagraph are exempt from the provisions of Section 250;

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

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and conducts substantially all of its operations in a River Edge Redevelopment Zone or zones. This subparagraph (K) is exempt from the provisions of Section 250;

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

(M) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the River Edge Redevelopment Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(f) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(f) investment credit property which secures the loan or loans, using for

this purpose the original basis of such property on the date that it was placed in service in the River Edge Redevelopment Zone. The subtraction modification available to taxpayer in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence. This subparagraph (M) is exempt from the provisions of Section 250;

(M-1) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the High Impact Business Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(h) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(h) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois. No taxpayer that is eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall be eligible for the deduction provided under this subparagraph (M-1). The subtraction modification available to taxpayers in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence;

(N) Two times any contribution made during the taxable year to a designated zone organization to the extent that the contribution (i) qualifies as a charitable contribution under subsection (c) of Section 170 of the Internal Revenue Code and (ii) must, by its terms, be used for a project approved by the Department of Commerce and Economic Opportunity under Section 11 of the Illinois Enterprise Zone Act or under Section 10-10 of the River Edge Redevelopment Zone Act. This subparagraph (N) is exempt from the provisions of Section 250;

(O) An amount equal to: (i) 85% for taxable years ending on or before December 31, 1992, or, a percentage equal to the percentage allowable under Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 1992, of the amount by which dividends included in taxable income and received from a corporation that is not created or organized under the laws of the United States or any state or political subdivision thereof, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends, and including, for taxable years ending on or after December 31, 2008, dividends received from a captive real estate investment trust; plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 965 of the Internal Revenue Code and including, for taxable years ending on or after December 31, 2008, dividends received from a captive real estate investment trust, from any such corporation specified in clause (i) that would but for the provisions of Section 1504 (b) (3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends. This subparagraph (O) is exempt from the provisions of Section 250 of this Act;

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

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

(R) On and after July 20, 1999, in the case of an attorney-in-fact with respect to whom an interinsurer or a reciprocal insurer has made the election under Section 835 of the Internal Revenue Code, 26 U.S.C. 835, an amount equal to the excess, if any, of the amounts paid or incurred by that interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to that interinsurer or reciprocal insurer with respect to the attorney-in-fact under Section 835(b) of the Internal Revenue Code for the taxable year; the provisions of this subparagraph are exempt from the provisions of Section 250;

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

(T) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (T) is exempt from the provisions of Section 250;

(U) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (U) is exempt from the provisions of Section 250;

(V) The amount of: (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification, (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification, and (iii) any insurance premium income (net of deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-19), Section 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section 203(d)(2)(D-9), but not to exceed the amount of that addition modification. This subparagraph (V) is exempt from the provisions of Section 250;

(W) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to

apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-12) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (W) is exempt from the provisions of Section 250;

(X) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-13) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person. This subparagraph (X) is exempt from the provisions of Section 250;

(Y) For taxable years ending on or after December 31, 2011, in the case of a taxpayer who was required to add back any insurance premiums under Section 203(b)(2)(E-14), such taxpayer may elect to subtract that part of a reimbursement received from the insurance company equal to the amount of the expense or loss (including expenses incurred by the insurance company) that would have been taken into account as a deduction for federal income tax purposes if the expense or loss had been uninsured. If a taxpayer makes the election provided for by this subparagraph (Y), the insurer to which the premiums were paid must add back to income the amount subtracted by the taxpayer pursuant to this subparagraph (Y). This subparagraph (Y) is exempt from the provisions of Section 250; and

(Z) The difference between the nondeductible controlled foreign corporation dividends under Section 965(e)(3) of the Internal Revenue Code over the taxable income of the taxpayer, computed without regard to Section 965(e)(2)(A) of the Internal Revenue Code, and without regard to any net operating loss deduction. This subparagraph (Z) is exempt from the provisions of Section 250.

(3) Special rule. For purposes of paragraph (2) (A), "gross income" in the case of a life insurance company, for tax years ending on and after December 31, 1994, and prior to December 31, 2011, shall mean the gross investment income for the taxable year and, for tax years ending on or after December 31, 2011, shall mean all amounts included in life insurance gross income under Section 803(a)(3) of the Internal Revenue Code.

(c) Trusts and estates.

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

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

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

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

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

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

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such taxable year, with the following limitations applied in the order that they are listed:

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

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

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

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

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

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

(G-10) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; and

(G-11) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (R) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (R), then an amount equal to that subtraction modification.

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

(G-12) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

(G-13) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes: (1) expenses, losses, and costs for or related to the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

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

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

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

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

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly,

from a transaction with a person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

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

(G-14) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) or Section 203(c)(2)(G-13) of this Act;

(G-15) An amount equal to the credit allowable to the taxpayer under Section 218(a) of this Act, determined without regard to Section 218(c) of this Act;

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

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

(I) The valuation limitation amount;

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

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

(L) With the exception of any amounts subtracted under subparagraph (K), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2) and 265(a)(2) of the Internal Revenue Code, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code, plus, (iii) for taxable years ending on or after December 31, 2011, Section 45G(e)(3) of the Internal Revenue Code and, for taxable years ending on or after December 31, 2008, any amount included in gross income under Section 87 of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(M) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and conducts substantially all of its operations in a River Edge Redevelopment Zone or zones. This subparagraph (M) is exempt from the provisions of Section 250;

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

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

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

(Q) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(R) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (R) is exempt from the provisions of Section 250;

(S) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (S) is exempt from the provisions of Section 250;

(T) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification. This subparagraph (T) is exempt from the provisions of Section 250;

(U) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-12) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (U) is exempt from the provisions of Section 250;

(V) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-13) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person. This subparagraph (V) is exempt from the provisions of Section 250;

(W) in the case of an estate, an amount equal to all amounts included in such total pursuant to the provisions of Section 111 of the Internal Revenue Code as a recovery of items previously deducted by the decedent from adjusted gross income in the computation of taxable income. This subparagraph (W) is exempt from Section 250;

(X) an amount equal to the refund included in such total of any tax deducted for federal income tax purposes, to the extent that deduction was added back under subparagraph (F). This subparagraph (X) is exempt from the provisions of Section 250; and

(Y) For taxable years ending on or after December 31, 2011, in the case of a taxpayer who was required to add back any insurance premiums under Section 203(c)(2)(G-14), such taxpayer may elect to subtract that part of a reimbursement received from the insurance company equal to the amount of the expense or loss (including expenses incurred by the insurance company) that would have been taken into account as a deduction for federal income tax purposes if the expense or loss had been uninsured. If a taxpayer makes the election provided for by this subparagraph (Y), the insurer to which the premiums were paid must add back to income the amount subtracted by the taxpayer pursuant to this subparagraph (Y). This subparagraph (Y) is exempt from the provisions of Section 250.

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

(d) Partnerships.

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

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

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

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

(C) The amount of deductions allowed to the partnership pursuant to Section 707 (c) of the Internal Revenue Code in calculating its taxable income; provided that no addition shall be required under this subparagraph (C) for taxable years ending on or after December 31, 2009, for deductions allowed for guaranteed payments to an individual partner for personal services by that partner;

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

(D-5) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(D-6) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (O) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (O), then an amount equal to that subtraction modification.

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

(D-7) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

(D-8) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(d)(2)(D-7) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets;

This paragraph shall not apply to the following:

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

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

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

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

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

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act

for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-9) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(d)(2)(D-7) or Section 203(d)(2)(D-8) of this Act;

(D-10) An amount equal to the credit allowable to the taxpayer under Section 218(a) of this Act, determined without regard to Section 218(c) of this Act;

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

(E) The valuation limitation amount;

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

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

(H) Any income of the partnership which constitutes personal service income as defined in Section 1348 (b) (1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater; this subparagraph (H) is exempt from the provisions of Section 250;

(I) An amount equal to all amounts of income distributable to an entity subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act including amounts distributable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code; this subparagraph (I) is exempt from the provisions of Section 250;

(J) With the exception of any amounts subtracted under subparagraph (G), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code, plus, (iii) for taxable years ending on or after December 31, 2011, Section 45G(e)(3) of the Internal Revenue Code and, for taxable years ending on or after December 31, 2008, any amount included in gross income under Section 87 of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and conducts substantially all of its operations in from a River Edge Redevelopment Zone or zones. This subparagraph (K) is exempt from the provisions of Section 250;

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

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

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

(O) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (O) is exempt from the provisions of Section 250;

(P) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (P) is exempt from the provisions of Section 250;

(Q) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification. This subparagraph (Q) is exempt from Section 250;

(R) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the

addition modification required to be made for the same taxable year under Section 203(d)(2)(D-7) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (R) is exempt from Section 250;

(S) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-8) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (S) is exempt from Section 250; and

(T) For taxable years ending on or after December 31, 2011, in the case of a taxpayer who was required to add back any insurance premiums under Section 203(d)(2)(D-9), such taxpayer may elect to subtract that part of a reimbursement received from the insurance company equal to the amount of the expense or loss (including expenses incurred by the insurance company) that would have been taken into account as a deduction for federal income tax purposes if the expense or loss had been uninsured. If a taxpayer makes the election provided for by this subparagraph (T), the insurer to which the premiums were paid must add back to income the amount subtracted by the taxpayer pursuant to this subparagraph (T). This subparagraph (T) is exempt from the provisions of Section 250.

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

(1) In general. Subject to the provisions of paragraph (2) and subsection (b) (3), for purposes of this Section and Section 803(e), a taxpayer's gross income, adjusted gross income, or taxable income for the taxable year shall mean the amount of gross income, adjusted gross income or taxable income properly reportable for federal income tax purposes for the taxable year under the provisions of the Internal Revenue Code. Taxable income may be less than zero. However, for taxable years ending on or after December 31, 1986, net operating loss carryforwards from taxable years ending prior to December 31, 1986, may not exceed the sum of federal taxable income for the taxable year before net operating loss deduction, plus the excess of addition modifications over subtraction modifications for the taxable year. For taxable years ending prior to December 31, 1986, taxable income may never be an amount in excess of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal Revenue Code, provided that when taxable income of a corporation (other than a Subchapter S corporation), trust, or estate is less than zero and addition modifications, other than those provided by subparagraph (E) of paragraph (2) of subsection (b) for corporations or subparagraph (E) of paragraph (2) of subsection (c) for trusts and estates, exceed subtraction modifications, an addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

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

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

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

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

(D) Real estate investment trusts. In the case of a real estate investment trust subject to the tax imposed by Section 857 of the Internal

Revenue Code, real estate investment trust taxable income;

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

(F) Cooperatives. In the case of a cooperative corporation or association, the taxable income of such organization determined in accordance with the provisions of Section 1381 through 1388 of the Internal Revenue Code, but without regard to the prohibition against offsetting losses from patronage activities against income from nonpatronage activities; except that a cooperative corporation or association may make an election to follow its federal income tax treatment of patronage losses and nonpatronage losses. In the event such election is made, such losses shall be computed and carried over in a manner consistent with subsection (a) of Section 207 of this Act and apportioned by the apportionment factor reported by the cooperative on its Illinois income tax return filed for the taxable year in which the losses are incurred. The election shall be effective for all taxable years with original returns due on or after the date of the election. In addition, the cooperative may file an amended return or returns, as allowed under this Act, to provide that the election shall be effective for losses incurred or carried forward for taxable years occurring prior to the date of the election. Once made, the election may only be revoked upon approval of the Director. The Department shall adopt rules setting forth requirements for documenting the elections and any resulting Illinois net loss and the standards to be used by the Director in evaluating requests to revoke elections. Public Act 96-932 is declaratory of existing law;

(G) Subchapter S corporations. In the case of: (i) a Subchapter S corporation for which there is in effect an election for the taxable year under Section 1362 of the Internal Revenue Code, the taxable income of such corporation determined in accordance with Section 1363(b) of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 1363(b)(1) of the Internal Revenue Code to be separately stated; and (ii) a Subchapter S corporation for which there is in effect a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982, the taxable income of such corporation determined in accordance with the federal Subchapter S rules as in effect on July 1, 1982; and

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

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

(f) Valuation limitation amount.

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

(A) The sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of gain reportable under the provisions of Section 1245 or 1250 of the Internal Revenue Code) for all property in respect of which such gain was reported for the taxable year; plus

(B) The lesser of (i) the sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of capital gain) for all property in respect of which such gain was reported for federal income tax purposes for the taxable year, or (ii) the

net capital gain for the taxable year, reduced in either case by any amount of such gain included in the amount determined under subsection (a) (2) (F) or (c) (2) (H).

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

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

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

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

(g) Double deductions.

Unless specifically provided otherwise, nothing in this Section shall permit the same item to be deducted more than once.

(h) Legislative intention.

Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

(Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09; 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff. 8-14-09; 96-1214, eff. 7-22-10.)

Sec. 204. Standard Exemption.

(a) Allowance of exemption. In computing net income under this Act, there shall be allowed as an exemption the sum of the amounts determined under subsections (b), (c) and (d), multiplied by a fraction the numerator of which is the amount of the taxpayer's base income allocable to this State for the taxable year and the denominator of which is the taxpayer's total base income for the taxable year.

(b) Basic amount. For the purpose of subsection (a) of this Section, except as provided by subsection (a) of Section 205 and in this subsection, each taxpayer shall be allowed a basic amount of $1000, except that for corporations the basic amount shall be zero for tax years ending on or after December 31, 2003, and for individuals the basic amount shall be:

(1) for taxable years ending on or after December 31, 1998 and prior to December 31, 1999, $1,300;

(2) for taxable years ending on or after December 31, 1999 and prior to December 31, 2000, $1,650;

(3) for taxable years ending on or after December 31, 2000, and prior to December 31, 2012, $2,000;

(4) for taxable years ending on or after December 31, 2012 and prior to December 31, 2013, $2,050;

(5) for taxable years ending on or after December 31, 2013, $2,050 plus the cost-of-living adjustment under subsection (d-5).

For taxable years ending on or after December 31, 1992, a taxpayer whose Illinois base income exceeds the basic amount and who is claimed as a dependent on another person's tax return under the Internal Revenue Code shall not be allowed any basic amount under this subsection.

(c) Additional amount for individuals. In the case of an individual taxpayer, there shall be allowed for the purpose of subsection (a), in addition to the basic amount provided by subsection (b), an additional exemption equal to the basic amount for each exemption in excess of one allowable to such individual taxpayer for the taxable year under Section 151 of the Internal Revenue Code.

(d) Additional exemptions for an individual taxpayer and his or her spouse. In the case of an individual taxpayer and his or her spouse, he or she shall each be allowed additional exemptions as follows:

(1) Additional exemption for taxpayer or spouse 65 years of age or older.

(A) For taxpayer. An additional exemption of $1,000 for the taxpayer if he or she has attained the age of 65 before the end of the taxable year.

(B) For spouse when a joint return is not filed. An additional exemption of $1,000 for the spouse of the taxpayer if a joint return is not made by the taxpayer and his spouse, and if the spouse has attained the age of 65 before the end of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(2) Additional exemption for blindness of taxpayer or spouse.

(A) For taxpayer. An additional exemption of $1,000 for the taxpayer if he or she is blind at the end of the taxable year.

(B) For spouse when a joint return is not filed. An additional exemption of $1,000 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the end of the taxable year of the taxpayer; except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(C) Blindness defined. For purposes of this subsection, an individual is blind only if his or her central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his or her visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual fields subtends an angle no greater than 20 degrees.

(d-5) Cost-of-living adjustment. For purposes of item (5) of subsection (b), the cost-of-living adjustment for any calendar year and for taxable years ending prior to the end of the subsequent calendar year is equal to $2,050 times the percentage (if any) by which:

(1) the Consumer Price Index for the preceding calendar year, exceeds

(2) the Consumer Price Index for the calendar year 2011.

The Consumer Price Index for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on August 31 of that calendar year.

The term "Consumer Price Index" means the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor or any successor agency.

If any cost-of-living adjustment is not a multiple of $25, that adjustment shall be rounded to the next lowest multiple of $25.

(e) Cross reference. See Article 3 for the manner of determining base income allocable to this State.

(f) Application of Section 250. Section 250 does not apply to the amendments to this Section made by Public Act 90-613.

Sec. 205. Exempt organizations.

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

(b) Partnerships. A partnership as such shall not be subject to the tax imposed by subsection 201 (a) and (b) of this Act, but shall be subject to the replacement tax imposed by subsection 201 (c) and (d) of this Act and shall compute its base income as described in subsection (d) of Section 203 of this Act. For taxable years ending on or after December 31, 2004, an investment partnership, as defined in Section 1501(a)(11.5) of this Act, shall not be subject to the tax imposed by subsections (c) and (d) of Section 201 of this Act. A partnership shall file such returns and other information at such time and in such manner as may be required under Article 5 of this Act. The partners in a partnership shall be liable for the replacement tax imposed by subsection 201 (c) and (d) of this Act on such

partnership, to the extent such tax is not paid by the partnership, as provided under the laws of Illinois governing the liability of partners for the obligations of a partnership. Persons carrying on business as partners shall be liable for the tax imposed by subsection 201 (a) and (b) of this Act only in their separate or individual capacities.

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

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

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

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

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

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

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

Sec. 206. Tax Credits For Coal Research And Coal Utilization Equipment.

(a) Until January 1, 2005, each corporation subject to this Act shall be entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 20% of the amount donated to the Illinois Center for Research on Sulfur in Coal.

(b) Until January 1, 2005, each corporation subject to this Act shall be entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 5% of the amount spent during the taxable year by the corporation on equipment purchased for the purpose of maintaining or increasing the use of Illinois coal at any Illinois facility owned, leased or operated by the corporation. Such equipment shall be limited to direct coal combustion equipment and pollution control equipment necessary thereto. For purposes of this credit, the amount spent on qualifying equipment shall be defined as the basis of the equipment used to compute the depreciation deduction for federal income tax purposes.

For tax years ending on or after December 31, 1987, the credit shall be allowed for the tax year in which the amount is donated or the equipment purchased is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

Sec. 207. Net Losses.

(a) If after applying all of the (i) modifications provided for in paragraph (2) of Section 203(b), paragraph (2) of Section 203(c) and paragraph (2) of Section 203(d) and (ii) the allocation and apportionment provisions of Article 3 of this Act and subsection (c) of this Section, the taxpayer's net income results in a loss;

(1) for any taxable year ending prior to December 31, 1999, such loss shall be allowed as a carryover or carryback deduction in the manner allowed under Section 172 of the Internal Revenue Code;

(2) for any taxable year ending on or after December 31, 1999 and prior to December 31,

2003, such loss shall be allowed as a carryback to each of the 2 taxable years preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 20 taxable years following the taxable year of such loss; and

(3) for any taxable year ending on or after December 31, 2003, such loss shall be allowed as a net operating loss carryover to each of the 12 taxable years following the taxable year of such loss, except as provided in subsection (d).

(a-5) Election to relinquish carryback and order of application of losses.

(A) For losses incurred in tax years ending prior to December 31, 2003, the taxpayer may elect to relinquish the entire carryback period with respect to such loss. Such election shall be made in the form and manner prescribed by the Department and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year in which such loss is incurred, and such election, once made, shall be irrevocable.

(B) The entire amount of such loss shall be carried to the earliest taxable year to which such loss may be carried. The amount of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the deductions for carryback or carryover of such loss allowable for each of the prior taxable years to which such loss may be carried.

(b) Any loss determined under subsection (a) of this Section must be carried back or carried forward in the same manner for purposes of subsections (a) and (b) of Section 201 of this Act as for purposes of subsections (c) and (d) of Section 201 of this Act.

(c) Notwithstanding any other provision of this Act, for each taxable year ending on or after December 31, 2008, for purposes of computing the loss for the taxable year under subsection (a) of this Section and the deduction taken into account for the taxable year for a net operating loss carryover under paragraphs (1), (2), and (3) of subsection (a) of this Section, the loss and net operating loss carryover shall be reduced in an amount equal to the reduction to the net operating loss and net operating loss carryover to the taxable year, respectively, required under Section 108(b)(2)(A) of the Internal Revenue Code, multiplied by a fraction, the numerator of which is the amount of discharge of indebtedness income that is excluded from gross income for the taxable year (but only if the taxable year ends on or after December 31, 2008) under Section 108(a) of the Internal Revenue Code and that would have been allocated and apportioned to this State under Article 3 of this Act but for that exclusion, and the denominator of which is the total amount of discharge of indebtedness income excluded from gross income under Section 108(a) of the Internal Revenue Code for the taxable year. The reduction required under this subsection (c) shall be made after the determination of Illinois net income for the taxable year in which the indebtedness is discharged.

(d) In the case of a corporation (other than a Subchapter S corporation), no carryover deduction shall be allowed under this Section for any taxable year ending after December 31, 2010 and prior to December 31, 2012, and no carryover deduction shall exceed $100,000 for any taxable year ending on or after December 31, 2012 and prior to December 31, 2014; provided that, for purposes of determining the taxable years to which a net loss may be carried under subsection (a) of this Section, no taxable year for which a deduction is disallowed under this subsection, or for which the deduction would exceed $100,000 if not for this subsection, shall be counted.

(e) In the case of a residual interest holder in a real estate mortgage investment conduit subject to Section 860E of the Internal Revenue Code, the net loss in subsection (a) shall be equal to:

(1) the amount computed under subsection (a), without regard to this subsection (e), or if that amount is positive, zero;

(2) minus an amount equal to the amount computed under subsection (a), without regard to this subsection (e), minus the amount that would be computed under subsection (a) if the taxpayer's federal taxable income were computed without regard to Section 860E of the Internal Revenue Code and without regard to this subsection (e).

The modification in this subsection (e) is exempt from the provisions of Section 250.

Sec. 208. Tax Credit For Residential Real Property Taxes.

Beginning with tax years ending on or after December 31, 1991, every individual taxpayer shall be entitled to a tax credit equal to 5% of real property taxes paid by such taxpayer during the taxable year on the principal residence of the taxpayer. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion

of the total taxes which is attributable to such principal residence.

Sec. 208.1. Homeowners' Tax Relief Rebate.

(a) The Department shall pay a rebate to taxpayers in the amount of the Illinois income tax credit allowed under Section 208 with respect to the taxpayer's 1999 Illinois income tax return for residential real property taxes paid on the principal residence of the taxpayer. The rebate shall not, however, exceed $300 per principal residence. The rebate shall be paid to all eligible taxpayers who have filed a 1999 Illinois income tax return on or before October 17, 2000.

(b) Before June 30, 2000, the Comptroller shall order transferred and the Treasurer shall transfer $280,000,000 from the Tobacco Settlement Recovery Fund to the Homeowners' Tax Relief Fund, a special fund in the State Treasury. Subject to appropriation, the Department shall make the rebate payments out of the Homeowners' Tax Relief Fund.

(c) The Department shall certify the names of the taxpayers whose returns were filed on or before July 17, 2000 and the rebate amounts to the Comptroller by August 15, 2000. The Comptroller shall mail the rebate warrants to these taxpayers by October 17, 2000.

(d) The Department shall certify the names of the taxpayers whose returns were filed after July 17, 2000 and on or before October 17, 2000 and the rebate amounts to the Comptroller by November 17, 2000. The Comptroller shall mail the rebate warrants to these taxpayers by December 15, 2000.

(e) Any unencumbered amount in the Homeowners' Tax Relief Fund on January 1, 2001 shall be transferred to the Budget Stabilization Fund, a special fund in the State Treasury, and any amount remaining in the Homeowners' Tax Relief Fund on July 1, 2001 shall be transferred to the Budget Stabilization Fund.

Sec. 209. Tax Credit for "TECH-PREP" youth vocational programs.

(a) Beginning with tax years ending on or after June 30, 1995, every taxpayer who is primarily engaged in manufacturing is allowed a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 20% of the taxpayer's direct payroll expenditures for which a credit has not already been claimed under subsection (j) of Section 201 of this Act, in the tax year for which the credit is claimed, for cooperative secondary school youth vocational programs in Illinois which are certified as qualifying TECH-PREP programs by the State Board of Education because the programs prepare students to be technically skilled workers and meet the performance standards of business and industry and the admission standards of higher education. The credit may also be claimed for personal services rendered to the taxpayer by a TECH-PREP student or instructor (i) which would be subject to the provisions of Article 7 of this Act if the student or instructor was an employee of the taxpayer and (ii) for which no credit under this Section is claimed by another taxpayer.

(b) If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 2 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first.

(c) A taxpayer claiming the credit provided by this Section shall maintain and record such information regarding its participation in a qualifying TECH-PREP program as the Department may require by regulation. When claiming the credit provided by this Section, the taxpayer shall provide such information regarding the taxpayer's participation in a qualifying TECH-PREP program as the Department of Revenue may require by regulation.

(d) This Section does not apply to those programs with national standards that have been or in the future are approved by the U.S. Department of Labor, Bureau of Apprenticeship Training or any federal agency succeeding to the responsibilities of that Bureau. (Source: P.A. 88-505; 89-399, eff. 8-20-95.)

Sec. 210. Dependent Care Assistance Program Tax Credit.

(a) Beginning with tax years ending on or after June 30, 1995, each taxpayer who is primarily engaged in manufacturing is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 5% of the amount of expenditures by the taxpayer in the tax year for which the credit is claimed, reported pursuant to Section 129(d)(7) of the Internal Revenue Code, to provide in the Illinois premises of the taxpayer's workplace an on-site facility

dependent care assistance program under Section 129 of the Internal Revenue Code.

(b) If the amount of credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 2 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first.

(c) A taxpayer claiming the credit provided by this Section shall maintain and record such information as the Department may require by regulation regarding the dependent care assistance program for which credit is claimed. When claiming the credit provided by this Section, the taxpayer shall provide such information regarding the taxpayer's provision of a dependent care assistance program under Section 129 of the Internal Revenue Code. (Source: P.A. 88-505.)

Sec. 210.5. Tax credit for employee child care.

(a) Each corporate taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to (i) for taxable years ending on or after December 31, 2000 and on or before December 31, 2004 and for taxable years ending on or after December 31, 2007, 30% of the start-up costs expended by the corporate taxpayer to provide a child care facility for the children of its employees and (ii) for taxable years ending on or after December 31, 2000, 5% of the annual amount paid by the corporate taxpayer in providing the child care facility for the children of its employees. The provisions of Section 250 do not apply to the credits allowed under this Section. If the 5% credit authorized under item (ii) of this subsection is claimed, the 5% credit authorized under Section 210 cannot also be claimed.

To receive the tax credit under this Section a corporate taxpayer may either independently provide and operate a child care facility for the children of its employees or it may join in a partnership with one or more other corporations to jointly provide and operate a child care facility for the children of employees of the corporations in the partnership.

(b) The tax credit may not reduce the taxpayer's liability to less than zero. If the amount of the tax credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit must be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, then the earlier credit must be applied first.

(c) As used in this Section, "start-up costs" means planning, site-preparation, construction, renovation, or acquisition of a child care facility. As used in this Section, "child care facility" is limited to a child care facility located in Illinois.

(d) A corporate taxpayer claiming the credit provided by this Section shall maintain and record such information as the Department may require by rule regarding the child care facility for which the credit is claimed.

Sec. 211. Economic Development for a Growing Economy Tax Credit.

For tax years beginning on or after January 1, 1999, a Taxpayer who has entered an Agreement under the Economic Development for a Growing Economy Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount to be determined in the Agreement. If the Taxpayer is a partnership or Subchapter S corporation, the credit shall be allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code. The Department, in cooperation with the Department of Commerce and Community Affairs, shall prescribe rules to enforce and administer the provisions of this Section. This Section is exempt from the provisions of Section 250 of this Act.

The credit shall be subject to the conditions set forth in the Agreement and the following limitations:

(1) The tax credit shall not exceed the Incremental Income Tax (as defined in Section 5-5 of the Economic Development for a Growing Economy Tax Credit Act) with respect to the project.

(2) The amount of the credit allowed during the tax year plus the sum of all amounts allowed in prior years shall not exceed 100% of the aggregate amount expended by the Taxpayer during all prior tax years on approved costs defined by Agreement.

(3) The amount of the credit shall be determined on an annual basis. Except as applied in a carryover year pursuant to Section 211(4) of this

Act, the credit may not be applied against any State income tax liability in more than 10 taxable years; provided, however, that (i) an eligible business certified by the Department of Commerce and Community Affairs under the Corporate Headquarters Relocation Act may not apply the credit against any of its State income tax liability in more than 15 taxable years and (ii) credits allowed to that eligible business are subject to the conditions and requirements set forth in Sections 5-35 and 5-45 of the Economic Development for a Growing Economy Tax Credit Act.

(4) The credit may not exceed the amount of taxes imposed pursuant to subsections (a) and (b) of Section 201 of this Act. Any credit that is unused in the year the credit is computed may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first.

(5) No credit shall be allowed with respect to any Agreement for any taxable year ending after the Noncompliance Date. Upon receiving notification by the Department of Commerce and Community Affairs of the noncompliance of a Taxpayer with an Agreement, the Department shall notify the Taxpayer that no credit is allowed with respect to that Agreement for any taxable year ending after the Noncompliance Date, as stated in such notification. If any credit has been allowed with respect to an Agreement for a taxable year ending after the Noncompliance Date for that Agreement, any refund paid to the Taxpayer for that taxable year shall, to the extent of that credit allowed, be an erroneous refund within the meaning of Section 912 of this Act.

(6) For purposes of this Section, the terms "Agreement", "Incremental Income Tax", and "Noncompliance Date" have the same meaning as when used in the Economic Development for a Growing Economy Tax Credit Act. (Source: P.A. 91-476, eff. 8-11-99.)

Sec. 212. Earned income tax credit.

(a) With respect to the federal earned income tax credit allowed for the taxable year under Section 32 of the federal Internal Revenue Code, 26 U.S.C. 32, each individual taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to (i) 5% of the federal tax credit for each taxable year beginning on or after January 1, 2000 and ending prior to December 31, 2012, (ii) 7.5% of the federal tax credit for each taxable year beginning on or after January 1, 2012 and ending prior to December 31, 2013, and (iii) 10% of the federal tax credit for each taxable year beginning on or after January 1, 2013.

For a non-resident or part-year resident, the amount of the credit under this Section shall be in proportion to the amount of income attributable to this State.

(b) For taxable years beginning before January 1, 2003, in no event shall a credit under this Section reduce the taxpayer's liability to less than zero. For each taxable year beginning on or after January 1, 2003, if the amount of the credit exceeds the income tax liability for the applicable tax year, then the excess credit shall be refunded to the taxpayer. The amount of a refund shall not be included in the taxpayer's income or resources for the purposes of determining eligibility or benefit level in any means-tested benefit program administered by a governmental entity unless required by federal law.

(c) This Section is exempt from the provisions of Section 250.

Sec. 213. Film production services credit.

Film production services credit. For tax years beginning on or after January 1, 2004, a taxpayer who has been awarded a tax credit under the Film Production Services Tax Credit Act or under the Film Production Services Tax Credit Act of 2008 is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount determined by the Department of Commerce and Economic Opportunity under those Acts. If the taxpayer is a partnership or Subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

A transfer of this credit may be made by the taxpayer earning the credit within one year after the credit is awarded in accordance with rules adopted by the Department of Commerce and Economic Opportunity.

The Department, in cooperation with the Department of Commerce and Economic Opportunity, must prescribe rules to enforce and

administer the provisions of this Section. This Section is exempt from the provisions of Section 250 of this Act.

The credit may not be carried back. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In no event shall a credit under this Section reduce the taxpayer's liability to less than zero.

Sec. 214. Tax credit for affordable housing donations.

(a) Beginning with taxable years ending on or after December 31, 2001 and until the taxable year ending on December 31, 2016, a taxpayer who makes a donation under Section 7.28 of the Illinois Housing Development Act is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 50% of the value of the donation. Partners, shareholders of subchapter S corporations, and owners of limited liability companies (if the limited liability company is treated as a partnership for purposes of federal and State income taxation) are entitled to a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 703 and subchapter S of the Internal Revenue Code. Persons or entities not subject to the tax imposed by subsections (a) and (b) of Section 201 and who make a donation under Section 7.28 of the Illinois Housing Development Act are entitled to a credit as described in this subsection and may transfer that credit as described in subsection (c).

(b) If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.

(c) The transfer of the tax credit allowed under this Section may be made (i) to the purchaser of land that has been designated solely for affordable housing projects in accordance with the Illinois Housing Development Act or (ii) to another donor who has also made a donation in accordance with Section 7.28 of the Illinois Housing Development Act.

(d) A taxpayer claiming the credit provided by this Section must maintain and record any information that the Department may require by regulation regarding the project for which the credit is claimed. When claiming the credit provided by this Section, the taxpayer must provide information regarding the taxpayer's donation to the project under the Illinois Housing Development Act.

Sec. 216. Credit for wages paid to ex-felons.

(a) For each taxable year beginning on or after January 1, 2007, each taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 of this Act in an amount equal to 5% of qualified wages paid by the taxpayer during the taxable year to one or more Illinois residents who are qualified ex-offenders. The total credit allowed to a taxpayer with respect to each qualified ex-offender may not exceed $1500 for all taxable years. For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(b) For purposes of this Section, "qualified wages":

(1) includes only wages that are subject to federal unemployment tax under Section 3306 of the Internal Revenue Code, without regard to any dollar limitation contained in that Section;

(2) does not include any amounts paid or incurred by an employer for any period to any qualified ex-offender for whom the employer receives federally funded payments for on-the-job training of that qualified ex-offender for that period; and

(3) includes only wages attributable to service rendered during the one-year period beginning with the day the qualified ex-offender begins work for the employer.

If the taxpayer has received any payment from a program established under Section 482(e)(1) of the federal Social Security Act with respect to a qualified ex-offender, then, for

purposes of calculating the credit under this Section, the amount of the qualified wages paid to that qualified ex-offender must be reduced by the amount of the payment.

(c) For purposes of this Section, "qualified ex-offender" means any person who:

(1) has been convicted of a crime in this State or of an offense in any other jurisdiction, not including any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act;

(2) was sentenced to a period of incarceration in an Illinois adult correctional center; and

(3) was hired by the taxpayer within three years after being released from an Illinois adult correctional center.

(d) In no event shall a credit under this Section reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.

(e) This Section is exempt from the provisions of Section 250.

Sec. 217. Credit for wages paid to qualified veterans.

(a) For each taxable year beginning on or after January 1, 2007 and ending on or before December 30, 2010, each taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 of this Act in an amount equal to 5%, but in no event to exceed $600, of the gross wages paid by the taxpayer to a qualified veteran in the course of that veteran's sustained employment during the taxable year. For each taxable year beginning on or after January 1, 2010, each taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 of this Act in an amount equal to 10%, but in no event to exceed $1,200, of the gross wages paid by the taxpayer to a qualified veteran in the course of that veteran's sustained employment during the taxable year. For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(b) For purposes of this Section:

"Qualified veteran" means an Illinois resident who: (i) was a member of the Armed Forces of the United States, a member of the Illinois National Guard, or a member of any reserve component of the Armed Forces of the United States; (ii) served on active duty in connection with Operation Desert Storm, Operation Enduring Freedom, or Operation Iraqi Freedom; (iii) has provided, to the taxpayer, documentation showing that he or she was honorably discharged; and (iv) was initially hired by the taxpayer on or after January 1, 2007.

"Sustained employment" means a period of employment that is not less than 185 days during the taxable year.

(c) In no event shall a credit under this Section reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first. (Source: P.A. 94-1067, eff. 8-1-06.)".

(d) A taxpayer who claims a credit under this Section for a taxable year with respect to a veteran shall not be allowed a credit under Section 217.1 of this Act with respect to the same veteran for that taxable year.

Sec. 217.1. Credit for wages paid to qualified unemployed veterans.

(a) For each taxable year ending on or after December 31, 2012 and on or before December 31, 2016, each taxpayer is entitled to a credit against the tax imposed by subsections (a) and (b) of Section 201 of this Act in the amount equal to 20%, but in no event to exceed $5,000, of the gross wages paid by the taxpayer to a qualified veteran in the course of that veteran's sustained employment during each taxable year ending on or after the date of hire by the taxpayer if that veteran was unemployed for an aggregate period of 4 weeks or more during the 6-week period ending on the Saturday immediately preceding the date he or

she was hired by the taxpayer. For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for the purposes of federal and State income taxation, there shall be allowed a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(b) For the purposes of this Section:

"Qualified veteran" means an Illinois resident who: (i) was a member of the Armed Forces of the United States, a member of the Illinois National Guard, or a member of any reserve component of the Armed Forces of the United States; (ii) served on active duty on or after September 11, 2001; (iii) has provided, to the taxpayer, documentation showing that he or she was honorably discharged; and (iv) was initially hired by the taxpayer on or after June 1, 2012.

"Sustained employment" means (i) a period of employment that is not less than 185 days following the date of hire or (ii) in the case of a veteran who was unemployed for an aggregate period of 6 months or more during the one-year period ending on the date the veteran was hired by the taxpayer, a period of employment that is more than 30 days following the date of hire. The period of sustained employment may be completed after the end of the taxable year in which the veteran is hired.

A veteran is "unemployed" for a week if he or she (i) has received unemployment benefits (as defined in Section 202 of the Unemployment Insurance Act, including but not limited to federally funded unemployment benefits) for the week, or (ii) has not been employed since being honorably discharged.

(c) In no event shall a credit under this Section reduce a taxpayer's liability to less than zero. If the amount of credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability for the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset liability, the earlier credit shall be applied first.

(d) A taxpayer who claims a credit under this Section for a taxable year with respect to a veteran shall not be allowed a credit under Section 217 of this Act with respect to the same veteran for that taxable year.

Sec. 218. Credit for student-assistance contributions.

(a) For taxable years ending on or after December 31, 2009 and on or before December 30, 2020, each taxpayer who, during the taxable year, makes a contribution (i) to a specified individual College Savings Pool Account under Section 16.5 of the State Treasurer Act or (ii) to the Illinois Prepaid Tuition Trust Fund in an amount matching a contribution made in the same taxable year by an employee of the taxpayer to that Account or Fund is entitled to a credit against the tax imposed under subsections (a) and (b) of Section 201 in an amount equal to 25% of that matching contribution, but not to exceed $500 per contributing employee per taxable year.

(b) For partners, shareholders of Subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there is allowed a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The credit may not be carried back. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.

(d) A taxpayer claiming the credit under this Section must maintain and record any information that the Illinois Student Assistance Commission, the Office of the State Treasurer, or the Department may require regarding the matching contribution for which the credit is claimed.

Sec. 219. Historic preservation credit.

For tax years beginning on or after January 1, 2010 and ending on or before December 31, 2015, a taxpayer who qualifies for a credit under the Historic Preservation Tax Credit Pilot Program Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act as provided in that Act. If the taxpayer is a partnership or Subchapter S

corporation, the credit shall be allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

If the amount of any tax credit awarded under this Section exceeds the qualified taxpayer's income tax liability for the year in which the qualified rehabilitation plan was placed in service, the excess amount may be carried forward or back as provided in the Historic Preservation Tax Credit Pilot Program Act.

Sec. 220. Angel investment credit.

(a) As used in this Section:

"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include a corporation, partnership, limited liability company, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the investment or a related member.

"Claimant" means an applicant certified by the Department who files a claim for a credit under this Section.

"Department" means the Department of Commerce and Economic Opportunity.

"Qualified new business venture" means a business that is registered with the Department under this Section.

"Related member" means a person that, with respect to the investment, is any one of the following,

(1) An individual, if the individual and the members of the individual's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the outstanding profits, capital, stock, or other ownership interest in the applicant.

(2) A partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the applicant.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the applicant and any other related member own, in the aggregate, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

(4) A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the applicant.

(5) A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except that for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in Section 1563(e) of the Internal Revenue Code.

(b) For taxable years beginning after December 31, 2010, and ending on or before December 31, 2016, subject to the limitations provided in this Section, a claimant may claim, as a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act, an amount equal to 25% of the claimant's investment made directly in a qualified new business venture. In order for an investment in a qualified new business venture to be eligible for tax credits, the business must have applied for and received certification under subsection (e) for the taxable year in which the investment was made prior to the date on which the investment was made. The credit under this Section may not exceed the taxpayer's Illinois income tax liability for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In the case of a partnership or Subchapter S Corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The maximum amount of an applicant's investment that may be used as the basis

for a credit under this Section is $2,000,000 for each investment made directly in a qualified new business venture.

(d) The Department shall implement a program to certify an applicant for an angel investment credit. Upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit to which the applicant is entitled. The Department shall annually certify that the claimant's investment has been made and remains in the qualified new business venture for no less than 3 years. If an investment for which a claimant is allowed a credit under subsection (b) is held by the claimant for less than 3 years, or, if within that period of time the qualified new business venture is moved from the State of Illinois, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the amount of the credit that the claimant received related to the investment.

(e) The Department shall implement a program to register qualified new business ventures for purposes of this Section. A business desiring registration shall submit an application to the Department in each taxable year for which the business desires registration. The Department may register the business only if the business satisfies all of the following conditions:

(1) it has its headquarters in this State;

(2) at least 51% of the employees employed by the business are employed in this State;

(3) it has the potential for increasing jobs in this State, increasing capital investment in this State, or both, and either of the following apply:

(A) it is principally engaged in innovation in any of the following: manufacturing; biotechnology; nanotechnology; communications; agricultural sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or

(B) it is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology;

(4) it is not principally engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act;

(5) at the time it is first certified:

(A) it has fewer than 100 employees;

(B) it has been in operation in Illinois for not more than 10 consecutive years prior to the year of certification; and

(C) it has received not more than $10,000,000 in aggregate private equity investment in cash;

(6) (blank); and

(7) it has received not more than $4,000,000 in investments that qualified for tax credits under this Section.

(f) The Department, in consultation with the Department of Revenue, shall adopt rules to administer this Section. The aggregate amount of the tax credits that may be claimed under this Section for investments made in qualified new business ventures shall be limited at $10,000,000 per calendar year.

(g) A claimant may not sell or otherwise transfer a credit awarded under this Section to another person.

(h) On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior calendar year.

(1) This report must include, for each tax credit certificate awarded:

(A) the name of the claimant and the amount of credit awarded or allocated to that claimant;

(B) the name and address of the qualified new business venture that received the investment giving rise to the credit and the county in which the qualified new business venture is located; and

(C) the date of approval by the Department of the applications for the tax credit certificate.

(2) The report must also include:

(A) the total number of applicants and amount for tax credit certificates awarded under this Section in the prior calendar year;

(B) the total number of applications and amount for which tax credit certificates were issued in the prior calendar year; and

(C) the total tax credit certificates and amount authorized under this Section for all calendar years.

Sec. 221. Rehabilitation costs; qualified historic properties; River Edge Redevelopment Zone.

(a) For taxable years beginning on or after January 1, 2012, there shall be allowed a tax credit against the tax imposed by subsections (a) and (b) of Section 201 in an amount equal to 25% of qualified expenditures incurred by a qualified taxpayer during the taxable year in the restoration and preservation of a qualified historic structure located in a River Edge Redevelopment Zone that exists on the effective date of this amendatory Act of the 97th General Assembly pursuant to a qualified rehabilitation plan, provided that the total amount of such expenditures (i) must equal $5,000 or more and (ii) must exceed 50% of the purchase price of the property.

(b) To obtain a tax credit pursuant to this Section, the taxpayer must apply with the Department of Commerce and Economic Opportunity no later than 6 months after the effective date of this amendatory Act of the 97th General Assembly. The Department of Commerce and Economic Opportunity, in consultation with the Historic Preservation Agency, shall determine the amount of eligible rehabilitation costs and expenses. The Historic Preservation Agency shall determine whether the rehabilitation is consistent with the standards of the Secretary of the United States Department of the Interior for rehabilitation. Upon completion and review of the project, the Department of Commerce and Economic Opportunity shall issue a certificate in the amount of the eligible credits. At the time the certificate is issued, an issuance fee up to the maximum amount of 2% of the amount of the credits issued by the certificate may be collected from the applicant to administer the provisions of this Section. If collected, this issuance fee shall be deposited into the Historic Property Administrative Fund, a special fund created in the State treasury. Subject to appropriation, moneys in the Historic Property Administrative Fund shall be evenly divided between the Department of Commerce and Economic Opportunity and the Historic Preservation Agency to reimburse the Department of Commerce and Economic Opportunity and the Historic Preservation Agency for the costs associated with administering this Section. The taxpayer must attach the certificate to the tax return on which the credits are to be claimed.

(c) If the amount of the credit exceeds the taxpayer's liability for the year, then the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.

(d) As used in this Section, the following terms have the following meanings.

"Qualified expenditure" means all the costs and expenses defined as qualified rehabilitation expenditures under Section 47 of the federal Internal Revenue Code that were incurred in connection with a qualified historic structure.

"Qualified historic structure" means a certified historic structure as defined under Section 47 (c)(3) of the federal Internal Revenue Code.

"Qualified rehabilitation plan" means a project that is approved by the Historic Preservation Agency as being consistent with the standards in effect on the effective date of this amendatory Act of the 97th General Assembly for rehabilitation as adopted by the federal Secretary of the Interior.

"Qualified taxpayer" means the owner of the qualified historic structure or any other person who qualifies for the federal rehabilitation credit allowed by Section 47 of the federal Internal Revenue Code with respect to that qualified historic structure. Partners, shareholders of subchapter S corporations, and owners of limited liability companies (if the limited liability company is treated as a partnership for purposes of federal and State income taxation) are entitled to a credit under this Section to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 703 and subchapter S of the Internal Revenue Code, provided that credits granted to a partnership, a

limited liability company taxed as a partnership, or other multiple owners of property shall be passed through to the partners, members, or owners respectively on a pro rata basis or pursuant to an executed agreement among the partners, members, or owners documenting any alternate distribution method.

Sec. 222. Live theater production credit.

(a) For tax years beginning on or after January 1, 2012, a taxpayer who has received a tax credit award under the Live Theater Production Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount determined under that Act by the Department of Commerce and Economic Opportunity.

(b) If the taxpayer is a partnership, limited liability partnership, limited liability company, or Subchapter S corporation, the tax credit award is allowed to the partners, unit holders, or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) A sale, assignment, or transfer of the tax credit award may be made by the taxpayer earning the credit within one year after the credit is awarded in accordance with rules adopted by the Department of Commerce and Economic Opportunity.

(d) The Department of Revenue, in cooperation with the Department of Commerce and Economic Opportunity, shall adopt rules to enforce and administer the provisions of this Section.

(e) The tax credit award may not be carried back. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 tax years following the excess credit year. The tax credit award shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset liability, the earlier credit shall be applied first. In no event may a credit under this Section reduce the taxpayer's liability to less than zero.

Sec. 223. Hospital credit.

(a) For tax years ending on or after December 31, 2012, a taxpayer that is the owner of a hospital licensed under the Hospital Licensing Act, but not including an organization that is exempt from federal income taxes under the Internal Revenue Code, is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount equal to the lesser of the amount of real property taxes paid during the tax year on real property used for hospital purposes during the prior tax year or the cost of free or discounted services provided during the tax year pursuant to the hospital's charitable financial assistance policy, measured at cost.

(b) If the taxpayer is a partnership or Subchapter S corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code. A transfer of this credit may be made by the taxpayer earning the credit within one year after the credit is earned in accordance with rules adopted by the Department. The Department shall prescribe rules to enforce and administer provisions of this Section. If the amount of the credit exceeds the tax liability for the year, then the excess credit may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In no event shall a credit under this Section reduce the taxpayer's liability to less than zero.

Sec. 245. The Do-It-Yourself School Funding Law.

On any original return for a taxable year ending on or after December 31, 1998 and prior to December 31, 2000, a taxpayer shall have the option to forgo claiming the exemptions provided under subsections (b) and (c) of Section 204 or the tax credit provided under Section 208 and instead may direct that the additional amount of tax resulting from not claiming the exemptions or credit shall be deposited into the Do-It-Yourself School Funding Fund.

(b) Notwithstanding the provisions of subsection (a) of this Section, the sunset date of any exemption, credit, or deduction that is scheduled to expire in 2011, 2012, or 2013 by operation of this Section shall be extended by 5 years.

(Source: P.A. 90-553, eff. 6-1-98.)

Sec. 250. Sunset Of Exemptions, Credits, And Deductions.

(a) The application of every exemption, credit, and deduction against tax imposed by this Act that becomes law after the effective date of this amendatory Act of 1994 shall be limited by a reasonable and appropriate sunset date. A taxpayer is not entitled to take the exemption, credit, or deduction for tax years beginning on or after the sunset date. Except as provided in subsection (b) of this Section, if a reasonable and appropriate sunset date is not specified in the Public Act that creates the exemption, credit, or deduction, a taxpayer shall not be entitled to take the exemption, credit, or deduction for tax years beginning on or after 5 years after the effective date of the Public Act creating the exemption, credit, or deduction and thereafter; provided, however, that in the case of any Public Act authorizing the issuance of tax-exempt obligations that does not specify a sunset date for the exemption or deduction of income derived from the obligations, the exemption or deduction shall not terminate until after the obligations have been paid by the issuer.

(b) Notwithstanding the provisions of subsection (a) of this Section, the sunset date of any exemption, credit, or deduction that is scheduled to expire in 2011, 2012, or 2013 by operation of this Section shall be extended by 5 years.

(Source: P.A. 88-660, eff. 9-16-94; 89-460, eff. 5-24-96.)

ARTICLE 3. ALLOCATION AND APPORTIONMENT OF BASE INCOME.

Sec. 301. General Rule.

(a) Residents. All items of income or deduction which were taken into account in the computation of base income for the taxable year by a resident shall be allocated to this State.

(b) Part-year residents. All items of income or deduction which were taken into account in the computation of base income for the taxable year by a part-year resident shall, for that part of the year the part-year resident was a resident of this State, be allocated to this State and, for the remaining part of the year, be allocated to this State only to the extent provided by Section 302, 303 or 304 (relating to compensation, nonbusiness income and business income, respectively).

(c) Other persons.

(1) In general. Any item of income or deduction which was taken into account in the computation of base income for the taxable year by any person other than a resident and which is referred to in Section 302, 303 or 304 (relating to compensation, nonbusiness income and business income, respectively) shall be allocated to this State only to the extent provided by such section.

(2) Unspecified items. Any item of income or deduction which was taken into account in the computation of base income for the taxable year by any person other than a resident and which is not otherwise specifically allocated or apportioned pursuant to Section 302, 303 or 304 (including, without limitation, interest, dividends, items of income taken into account under the provisions of Sections 401 through 425 of the Internal Revenue Code, and benefit payments received by a beneficiary of a supplemental unemployment benefit trust which is referred to in Section 501(c)(17) of the Internal Revenue Code):

(A) in the case of an individual, trust or estate, shall not be allocated to this State; and

(B) in the case of a corporation or a partnership, shall be allocated to this State if the taxpayer had its commercial domicile in this State at the time such item was paid, incurred or accrued. (Source: P.A. 82-609)

Sec. 302. Compensation Paid To Nonresidents.

(a) In general. All items of compensation paid in this State (as determined under Section 304(a)(2)(B)) to an individual who is a nonresident at the time of such payment and all items of deduction directly allocable thereto, shall be allocated to this State.

(b) Reciprocal exemption. The Director may enter into an agreement with the taxing authorities of any state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of this State shall be exempt from such tax; in such case, any compensation paid in this State to residents of such state shall not be allocated to this State. All reciprocal agreements shall be subject to the requirements of Section 2505-575 of the Department of Revenue Law (20 ILCS 2505/2505-575).

(c) Cross references.

(1) For allocation of amounts received by nonresidents from certain employee trusts, see Section 301(b)(2).

(2) For allocation of compensation by residents, see Section 301(a). (Source: P.A. 77-1379.)

Sec. 303. Non-Business Income Of Persons Other Than Residents.

(a) In general. Any item of capital gain or loss, and any item of income from rents or royalties from real or tangible personal property, interest, dividends, and patent or copyright royalties, and prizes awarded under the Illinois Lottery Law, to the extent such item constitutes nonbusiness income, together with any item of deduction directly allocable thereto, shall be allocated by any person other than a resident as provided in this Section.

(b) Capital gains and losses.

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

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

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

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

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

(c) Rents and royalties.

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

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

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

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

(d) Patent and copyright royalties.

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

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

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

(2) Utilization.

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

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

(e) Illinois lottery prizes. Prizes awarded under the Illinois Lottery Law are allocable to this State. Payments received in taxable years ending on or after December 31, 2013, from the assignment of a prize under Section 13.1 of the Illinois Lottery Law are allocable to this State.

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

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

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

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

(g) Cross references.

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

(2) For allocation of nonbusiness income by residents, see Section 301(a). (Source: P.A. 79-743.)

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

(a) In general.

The business income of a person other than a resident shall be allocated to this State if such person's business income is derived solely from this State. If a person other than a resident derives business income from this State and one or more other states, then, for tax years ending on or before December 30, 1998, and except as otherwise provided by this Section, such person's business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the sum of the property factor (if any), the payroll factor (if any) and 200% of the sales factor (if any), and the denominator of which is 4 reduced by the number of factors other than the sales factor which have a denominator of zero and by an additional 2 if the sales factor has a denominator of zero. For tax years ending on or after December 31, 1998, and except as otherwise provided by this Section, persons other than residents who derive business income from this State and one or more other states shall compute their apportionment factor by weighting their property, payroll, and sales factors as provided in subsection (h) of this Section.

(1) Property factor.

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

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

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

(2) Payroll factor.

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

(B) Compensation is paid in this State if:

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

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

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

(iv) Compensation paid to nonresident professional athletes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) during the taxable year on a date which does not fall within the foregoing period (e.g., participation in instructional leagues, the "All Star Game", or promotional caravans). This compensation shall include, but is not limited to, salaries, wages, bonuses as described in this subpart, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year.

This compensation does not include strike benefits, severance pay, termination pay, contract

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

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

(3) Sales factor.

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

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

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

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

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

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

(ii) Place of utilization.

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

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

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

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

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

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

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

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

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

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

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

"Communications Channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points. "Conference bridging service" means an "ancillary service" that links two or more participants of an audio or video conference call and may include the provision of a telephone number.

"Conference bridging service" does not include the "telecommunications services" used to reach the conference bridge.

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

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

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

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

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

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

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

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

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

"Private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a

communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

"Service address" means:

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

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

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

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

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

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

(c) Tangible personal property;

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

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

(f) Internet access service;

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

(h) "Ancillary services"; or

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

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

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

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

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

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

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

(iv) Receipts from the sale of prepaid telecommunications service or prepaid mobile telecommunications service at retail are in this

State if the purchaser obtains the prepaid card or similar means of conveyance at a location in this State. Receipts from recharging a prepaid telecommunications service or mobile telecommunications service is in this State if the purchaser's billing information indicates a location in this State.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) In the case where film or radio programming is broadcast by a station, a network, or a cable system for a fee or other remuneration received from the recipient of the broadcast, the portion of the service that is received in this State is measured by the portion of the recipients of the broadcast located in this State. Accordingly, the fee or other remuneration for such service that is included in the Illinois numerator of the sales factor is the total of those fees or other remuneration received from recipients in Illinois. For purposes of this paragraph, a taxpayer may determine the location of the recipients of its broadcast using the address of the recipient shown in its contracts with the recipient or using the billing address of the recipient in the taxpayer's records.

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

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

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

(B-8) Gross receipts from winnings under the Illinois Lottery Law from the assignment of a prize under Section 13-1 of the Illinois Lottery Law are received in this State. This paragraph (B-8) applies only to taxable years ending on or after December 31, 2013.

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

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

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

(C-5) For taxable years ending on or after December 31, 2008, sales, other than sales governed by paragraphs (B), (B-1), (B-2), (B-5),

and (B-7), are in this State if any of the following criteria are met:

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

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

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

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

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

(iv) Sales of services are in this State if the services are received in this State. For the purposes of this section, gross receipts from the performance of services provided to a corporation, partnership, or trust may only be attributed to a state where that corporation, partnership, or trust has a fixed place of business. If the state where the services are received is not readily determinable or is a state where the corporation, partnership, or trust receiving the service does not have a fixed place of business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed. If the taxpayer is not taxable in the state in which the services are received, the sale must be excluded from both the numerator and the denominator of the sales factor. The Department shall adopt rules prescribing where specific types of service are received, including, but not limited to, publishing, and utility service.

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

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

(b) Insurance companies.

(1) In general. Except as otherwise provided by paragraph (2), business income of an insurance company for a taxable year shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance upon property or risk in this State, and the denominator of which is the direct premiums written for insurance upon property or risk everywhere. For purposes of this subsection, the term "direct premiums written" means the total amount of direct

premiums written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Illinois Director of Insurance in the form approved by the National Convention of Insurance Commissioners or such other form as may be prescribed in lieu thereof.

(2) Reinsurance. If the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the business income of such company shall be apportioned to this State by multiplying such income by a fraction, the numerator of which is the sum of (i) direct premiums written for insurance upon property or risk in this State, plus (ii) premiums written for reinsurance accepted in respect of property or risk in this State, and the denominator of which is the sum of (iii) direct premiums written for insurance upon property or risk everywhere, plus (iv) premiums written for reinsurance accepted in respect of property or risk everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risk in this State, whether or not otherwise determinable, may, at the election of the company, be determined on the basis of the proportion which premiums written for reinsurance accepted from companies commercially domiciled in Illinois bears to premiums written for reinsurance accepted from all sources, or, alternatively, in the proportion which the sum of the direct premiums written for insurance upon property or risk in this State by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year. The election made by a company under this paragraph for its first taxable year ending on or after December 31, 2011, shall be binding for that company for that taxable year and for all subsequent taxable years, and may be altered only with the written permission of the Department, which shall not be unreasonably withheld.

(c) Financial organizations.

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

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

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

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

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

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

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

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

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

(i) The numerator shall be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The amount of interest from federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements attributable to this State and included in the numerator is determined by multiplying the amount described in subparagraph (A) of paragraph (1) of this subsection from such funds and such securities by a fraction, the numerator of which is the gross income from such funds and such securities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such funds and such securities.

(C) The amount of interest, dividends, gains, and other income from trading assets and activities, including but not limited to assets and activities in the matched book, in the arbitrage book and foreign currency transactions (but excluding amounts described in subparagraphs (A) or (B) of this paragraph), attributable to this State and included in the numerator is determined by multiplying the amount described in subparagraph (B) of paragraph (1) of this subsection by a fraction, the numerator of which is the gross income from such trading assets and activities which are properly assigned to a fixed place of business of the taxpayer within this State and the denominator of which is the gross income from all such assets and activities.

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

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

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

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

(E) The presumption of proper assignment of an investment or trading asset or activity provided in subparagraph (D) of paragraph (2) of this subsection may be rebutted upon a showing by the Department, supported by a preponderance of the evidence, that the preponderance of substantive contacts regarding such asset or activity did not occur at the fixed place of business to which it was assigned on the taxpayer's records. If the fixed place of business that has a preponderance of substantive contacts cannot be determined for an investment or trading asset or activity to which the presumption in subparagraph (D) of paragraph (2) of this subsection does not apply or with respect to which that presumption has been rebutted, that asset or activity is properly assigned to the state in which the taxpayer's commercial domicile is located. For purposes of this subparagraph (E), it shall be presumed, subject to rebuttal, that taxpayer's commercial domicile is in the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected with the management of the investment or trading income or out of which they are working, irrespective of where the services of such employees are performed, as of the last day of the taxable year.

(4) (Blank).

(5) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Separate accounting;

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

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

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

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

(h) For tax years ending on or after December 31, 1998, the apportionment factor of

persons who apportion their business income to this State under subsection (a) shall be equal to:

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

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

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

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

Sec. 305. Allocation Of Partnership Income By Partnerships And Partners Other Than Residents.

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

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

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

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

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

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

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

(d) Cross reference. For allocation of partnership income or deductions by residents, see Section 301 (a). (Source: P.A. 84-550.)

Sec. 306. Allocation Or Apportionment Of Income By Estates And Trusts.

The items of income and deduction taken into account by an estate or trust in computing its base income for a taxable year shall be allocated or apportioned to this State to the extent provided by Sections 301 through 304 and, to the extent properly paid, credited or required to be distributed to beneficiaries for such taxable year, shall be deemed to have been so paid, credited or distributed pro rata. (Source: P.A. 76-2402.)

Sec. 307. Allocation Of Income By Estate Or Trust Beneficiaries Other Than Residents.

(a) Allocation of business income by beneficiaries other than residents. To the extent the business income of an estate or trust allocated or

apportioned to this State in the possession of the estate or trust is deemed to have been paid, credited or distributed by the estate or trust under Section 306, the respective shares of beneficiaries of the estate or trust, other than residents, in such business income shall be taken into account by such beneficiaries in proportion to their respective shares of the distributable net income of the estate or trust for its taxable year and allocated to this State.

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

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

(d) Cross references.

(1) For allocation of amounts received by nonresidents from certain employee trusts, see Section 301 (b) (2).

(2) For allocation of estate or trust income or deductions by residents, see Section 301 (a). (Source: P.A. 84-550.)

Sec. 308. Allocation Of Subchapter S Corporation Income By Subchapter S Corporations And Shareholders Other Than Residents.

(a) Allocation of Subchapter S corporation business income by shareholders other than residents. The respective shares of shareholders other than residents in so much of the business income of the Subchapter S corporation as is allocated or apportioned to this State in the hands of the Subchapter S corporation shall be taken into account by such shareholder pro rata in accordance with the requirements of Section 1366 of the Internal Revenue Code for the Subchapter S corporation's taxable year and allocated to this State.

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

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

(d) This Section shall not apply to any corporation for which there is in effect a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982. (Source: P.A. 83-1352.)

ARTICLE 4. ACCOUNTING.

Sec. 401. Taxable Year.

(a) In general. For purposes of the tax imposed by this Act, the taxable year of a person shall be the same as the taxable year of such person for federal income tax purposes. The taxable year of any person required to file a return under this Act but not under the Internal Revenue Code shall be his annual accounting period if it is a fiscal or calendar year, and in all other cases shall be the calendar year.

(b) Change in taxable year. If the taxable year of a person is changed for federal income tax purposes, the taxable year of such person for purposes of the tax imposed by this Act shall be similarly changed. In the case of a taxable year for a period of less than 12 months, the standard

exemption allowed under section 204 shall be prorated on the basis of the number of days in such year to 365.

(c) Termination of taxable year for jeopardy. Notwithstanding the provisions of subsections (a) and (b), if the Department terminates the taxable year of a taxpayer under section 1102 (relating to tax in jeopardy), the tax shall be computed for the period determined by such action. (Source: P.A. 76-261.)

Sec. 402. Methods Of Accounting.

(a) Same as federal. For purposes of the tax imposed by this Act, a person's method of accounting shall be the same as such person's method of accounting for federal income tax purposes. If no method of accounting has been regularly used by such person, base and net income for purposes of this Act shall be computed under such method as in the opinion of the Department fairly reflects income.

(b) Change of accounting method. If a person's method of accounting is changed for federal income tax purposes, for purposes of this Act it shall be similarly changed. (Source: P.A. 76-261.)

Sec. 403. Effect Of Determination For Federal Purposes.

(a) Reporting. To the extent not inconsistent with the provisions of this Act or forms or regulations prescribed by the Department, each person making a return under this Act shall take into account the items of income, deduction and exclusion on such return in the same manner and amounts as reflected in such person's federal income tax return for the same taxable year.

(b) Adjustment. A final determination pursuant to the Internal Revenue Code adjusting any item or items of income, deduction or exclusion for any taxable year shall be correct for purposes of this Act to the extent such item or items enter into the determination of base income.

(c) Identification of differences. To the extent required by forms or regulations prescribed by the Department, any person making a return under this Act may be required to indicate the item or items of income, deduction and exclusion which would enter into the determination of base income if this Act were amended to incorporate the Internal Revenue Code as amended and in effect for such taxable year. (Source: P.A. 81-1405.)

Sec. 404. Reallocation Of Items.

(a) If it appears to the Director that any agreement, understanding or arrangement exists between any persons which causes any person's base income allocable to this State to be improperly or inaccurately reflected, the Director may adjust such items of income and deduction, and any factor taken into account in allocating income to this State, to such extent as may reasonably be required to determine the base income of such person properly allocable to this State.

(b) The Director may not make an adjustment to base income under this Section that has the same effect as retroactively applying any amendments to this Act made by Public Act 93-0840, Public Act 95-0233, or Public Act 95-0707. (Source: P.A. 76-261.)

Sec. 405 Carryovers in Certain Acquisitions.

(a) In the case of the acquisition of assets of a corporation by another corporation described in Section 381(a) of the Internal Revenue Code, the acquiring corporation shall succeed to and take into account, as of the close of the day of distribution or transfer, all Article 2 credits and net losses under Section 207 of the corporation from which the assets were acquired.

(b) In the case of the acquisition of assets of a partnership in a transaction in which the acquiring partnership is considered to be a continuation of the partnership from which the assets were acquired under the provisions of Section 708 of the Internal Revenue Code and any regulations promulgated under that Section, the acquiring partnership shall succeed to and take into account, as of the close of the day of distribution or transfer, all Article 2 credits and net losses under Section 207 of the partnership from which the assets were acquired.

(b-5) No limitation under Section 382 of the Internal Revenue Code or the separate return limitation year regulations promulgated under Section 1502 of the Internal Revenue Code shall apply to the carryover of any Article 2 credit or net loss allowable under Section 207.

(c) The provisions of this amendatory Act of the 91st General Assembly shall apply to all acquisitions occurring in taxable years ending on or after December 31, 1986; provided that if a taxpayer’s Illinois income tax liability for any taxable year, as assessed under Section 903 prior to

January 1, 1999, was computed without taking into account all of the Article 2 credits and net losses under Section 207 as allowed by this Section:

(1) no refund shall be payable to the taxpayer for that taxable year as the result of allowing any portion of the Article 2 credits or net losses under Section 207 that were not taken into account in computing the tax assessed prior to January 1, 1999;

(2) any deficiency which has not been paid may be reduced (but not below zero) by the allowance of some or all of the Article 2 credits or net losses under Section 207 that were not taken into account in computing the tax assessed prior to January 1, 1999; and

(3) in the case of any Article 2 credit or net loss under Section 207 that, pursuant to this subsection (c), could not be taken into account either in computing the tax assessed prior to January 1, 1999 for a taxable year or in reducing a deficiency for that taxable year under paragraph (2) of subsection (c), the allowance of such credit or loss in any other taxable year shall not be denied on the grounds that such credit or loss should not properly have been claimed in that taxable year under subsection (a) or (b).

ARTICLE 5. RECORDS, RETURNS AND NOTICES.

Sec. 501. Notice Or Regulations Requiring Records, Statements And Special Returns.

(a) In general. Every person liable for any tax imposed by this Act shall keep such records, render such statements, make such returns and notices, and comply with such rules and regulations as the Department may from time to time prescribe. Whenever in the judgment of the Director it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns and notices, render such statements, or keep such records, as the Director deems sufficient to show whether or not such person is liable for tax under this Act.

(b) Reportable transactions. For each taxable year in which a taxpayer is required to make a disclosure statement under Treasury Regulations Section 1.6011-4 (26 CFR 1.6011-4) (including any taxpayer that is a member of a consolidated group required to make such disclosure) with respect to a reportable transaction (including a listed transaction) in which the taxpayer participated in a taxable year for which a return is required under Section 502 of this Act, such taxpayer shall file a copy of such disclosure with the Department. Disclosure under this subsection is required to be made by any taxpayer that is a member of a unitary business group that includes any person required to make a disclosure statement under Treasury Regulations Section 1.6011-4. Disclosure under this subsection is required with respect to any transaction entered into after February 28, 2000 that becomes a listed transaction at any time, and shall be made in the manner prescribed by the Department. With respect to transactions in which the taxpayer participated for taxable years ending before December 31, 2004, disclosure shall be made by the due date (including extensions) of the first return required under Section 502 of this Act due after the effective date of this amendatory Act of the 93rd General Assembly. With respect to transactions in which the taxpayer participated for taxable years ending on and after December 31, 2004, disclosure shall be made in the time and manner prescribed in Treasury Regulations Section 1.6011-4(e). Notwithstanding the above, no disclosure is required for transactions entered into after February 28, 2000 and before January 1, 2005 (i) if the taxpayer has filed an amended Illinois income tax return which reverses the tax benefits of the potential tax avoidance transaction, or (ii) as a result of a federal audit the Internal Revenue Service has determined the tax treatment of the transaction and an Illinois amended return has been filed to reflect the federal treatment.

(Source: P.A. 76-261.)

Sec. 502. Returns and notices.

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

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

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

Notwithstanding the provisions of paragraph (1), a nonresident (other than, for taxable years ending on or after December 31, 2011, a nonresident required to withhold tax under Section 709.5) whose Illinois income tax liability under subsections (a), (b), (c), and (d) of Section 201 of this Act is paid in full after taking into account the credits allowed under subsection (f) of this Section or allowed under Section 709.5 of this Act shall not be required to file a return under this subsection (a).

(b) Fiduciaries and receivers.

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

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

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

(4) Receivers, trustees and assignees for corporations. In a case where a receiver, trustee in bankruptcy, or assignee, by order of a court of competent jurisdiction, by operation of law, or otherwise, has possession of or holds title to all or substantially all the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the returns and notices required of such corporation in the same manner and form as corporations are required to make such returns and notices.

(c) Joint returns by husband and wife.

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

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

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

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

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

(iii) any overpayment for that taxable year may be withheld under Section 909 of this Act or under Section 2505-275 of the Civil Administrative Code of Illinois and applied against a debt of either spouse without regard to the amount of the overpayment attributable to the other spouse; and

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

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

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

(4) Innocent spouses.

(A) However, for tax liabilities arising and paid prior to August 13, 1999, an innocent spouse shall be relieved of liability for tax (including interest and penalties) for any taxable year for which a joint return has been made, upon submission of proof that the Internal Revenue Service has made a determination under Section 6013(e) of the Internal Revenue Code, for the same taxable year, which determination relieved the spouse from liability for federal income taxes. If there is no federal income tax liability at issue for the same taxable year, the Department shall rely on the provisions of Section 6013(e) to determine whether the person requesting innocent spouse abatement of tax, penalty, and interest is entitled to that relief.

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

(i) An election properly made pursuant to Section 6015 of the Internal Revenue Code shall constitute an election under this paragraph, provided that the election shall not be effective until the individual has notified the Department of the election in the form and manner prescribed by the Department.

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

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

(iv) In determining the validity of an individual's election under subparagraph (ii) and in determining an electing individual's separate return amount or portion of any deficiency under subparagraph (iii), any determination made by the Secretary of the Treasury, by the United States Tax Court on petition for review of a determination by the Secretary of the Treasury, or on appeal from the United States Tax Court under Section 6015 of the Internal Revenue Code regarding criteria for eligibility or under subsection (d) of Section 6015 of the Internal Revenue Code regarding the allocation of any item of income, deduction, payment, or credit between an individual making the federal election and that individual's spouse shall be conclusively presumed to be correct. With respect to any item that is not the subject of a determination by the Secretary of the Treasury or the federal courts, in any proceeding involving this subsection, the individual making the election shall have the burden of proof with respect to any item except that the Department shall have the burden of proof with respect to items in subdivision (ii).

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

(vi) After receiving a notice that the federal election has been made or after receiving an election under subdivision (ii), the Department shall take no collection action against the electing individual for any liability arising from a joint return covered by the election until the Department has notified the electing individual in writing that the election is invalid or of the portion of the liability the Department has allocated to the electing individual. Within 60 days (150 days if the individual is outside the United States) after the issuance of such notification, the individual may file a written protest of the denial of the election or of the Department's determination of the liability allocated to him or her and shall be granted a hearing within the Department under the provisions of Section 908. If a protest is filed, the Department shall take no collection action against the electing individual until the decision regarding the protest has become final under subsection (d) of Section 908 or, if administrative review of the Department's decision is requested under Section 1201, until the decision of the court becomes final.

(d) Partnerships. Every partnership having any base income allocable to this State in accordance with section 305(c) shall retain information concerning all items of income, gain, loss and deduction; the names and addresses of all of the partners, or names and addresses of members of a limited liability company, or other persons who would be entitled to share in the base income of the partnership if distributed; the amount of the distributive share of each; and such other pertinent information as the Department may by forms or regulations prescribe. The partnership shall make that information available to the Department when requested by the Department.

(e) For taxable years ending on or after December 31, 1985, and before December 31, 1993, taxpayers that are corporations (other than Subchapter S corporations) having the same taxable year and that are members of the same unitary business group may elect to be treated as one taxpayer for purposes of any original return, amended return which includes the same taxpayers

of the unitary group which joined in the election to file the original return, extension, claim for refund, assessment, collection and payment and determination of the group's tax liability under this Act. This subsection (e) does not permit the election to be made for some, but not all, of the purposes enumerated above.

For taxable years ending on or after December 31, 1987, corporate members (other than Subchapter S corporations) of the same unitary business group making this subsection (e) election are not required to have the same taxable year. For taxable years ending on or after December 31, 1993, taxpayers that are corporations (other than Subchapter S corporations) and that are members of the same unitary business group shall be treated as one taxpayer for purposes of any original return, amended return which includes the same taxpayers of the unitary group which joined in filing the original return, extension, claim for refund, assessment, collection and payment and determination of the group's tax liability under this Act.

(f) For taxable years ending prior to December 31, 2014, the Department may promulgate regulations to permit nonresident individual partners of the same partnership, nonresident Subchapter S corporation shareholders of the same Subchapter S corporation, and nonresident individuals transacting an insurance business in Illinois under a Lloyds plan of operation, and nonresident individual members of the same limited liability company that is treated as a partnership under Section 1501 (a)(16) of this Act, to file composite individual income tax returns reflecting the composite income of such individuals allocable to Illinois and to make composite individual income tax payments. For taxable years ending prior to December 31, 2014, the Department may by regulation also permit such composite returns to include the income tax owed by Illinois residents attributable to their income from partnerships, Subchapter S corporations, insurance businesses organized under a Lloyds plan of operation, or limited liability companies that are treated as partnership under Section 1501(a)(16) of this Act, in which case such Illinois residents will be permitted to claim credits on their individual returns for their shares of the composite tax payments. This paragraph of subsection (f) applies to taxable years ending on or after December 31, 1987 and ending prior to December 31, 2014.

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

For taxable years ending on or after December 31, 2008, every nonresident shall be allowed a credit against his or her liability under subsections (a) and (b) of Section 201 for any amount of tax reported on a composite return and paid on his or her behalf under this subsection (f). Residents (other than persons transacting an insurance business organized under a Lloyds plan of operation) may claim a credit for taxes reported on a composite return and paid on their behalf under this subsection (f) only as permitted by the Department by rule.

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

(g) The Department may adopt rules to authorize the electronic filing of any return required to be filed under this Section. (Source: P.A. 94-1074, eff. 12-26-06; 95-233, eff. 8-16-07.)

Sec. 502.1. Use tax.

Beginning with taxable years ending on or after December 31, 2010, individual purchasers with an annual use tax liability that does not exceed

$600 may, in lieu of the filing and payment requirements of Section 10 of the Use Tax Act, file and pay in compliance with this Section.

Beginning with taxable years ending on or after December 31, 2010, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer's annual individual use tax liability does not exceed $600, he or she may report and pay individual use tax liability at the same time as his or her individual income tax liability. If the taxpayer elects to report and pay his or her individual use tax liability at the same time as his or her standard individual income tax liability in accordance with this Section, then the use tax shown due on the return may be (i) treated as being due at the same time as the income tax obligation, (ii) assessed, collected, and deposited in the same manner as income taxes, and (iii) treated as an income tax liability for all purposes.

The individual income tax return instructions shall include information explaining the tax imposed under the Use Tax Act and informing taxpayers how to report and pay their use tax obligations, including specific information on how to report and pay individual use tax at the same time as the individual income tax return is filed.

This Section shall not apply to any amended return.

Sec. 503. Signing Of Returns And Notices.

(a) Signature presumed authentic. The fact that an individual's name is signed to a return or notice shall be prima facie evidence for all purposes that such document was actually signed by such individual. If a return is prepared by an income tax return preparer for a taxpayer, that preparer shall sign the return as the preparer of that return. If a return is transmitted to the Department electronically, the Department may presume that the electronic return originator has obtained and is transmitting a valid signature document pursuant to the rules promulgated by the Department for the electronic filing of tax returns, or the Department may authorize electronic return originators to maintain the signature documents and associated documentation, subject to the Department's right of inspection at any time without notice, rather than transmitting those documents to the Department, and the Department may process the return.

(b) Corporations. A return or notice required of a corporation shall be signed by the president, vice-president, treasurer or any other officer duly authorized so to act or, in the case of a limited liability company, by a manager or member. In the case of a return or notice made for a corporation by a fiduciary pursuant to the provisions of section 502(b)(4), such fiduciary shall sign such document. The fact that an individual's name is signed to a return or notice shall be prima facie evidence that such individual is authorized to sign such document on behalf of the corporation.

(c) Partnerships. A return or notice of a partnership shall be signed by any one of the partners or, in the case of a limited liability company, by a manager or member. The fact that a partner's name is signed to a return or notice shall be prima facie evidence that such individual is authorized to sign such document on behalf of the partnership or limited liability company.

(d) Joint fiduciaries. A return or notice signed by one of two or more joint fiduciaries will comply with the requirements of this Act. The fact that a fiduciary's name is signed to such document shall be prima facie evidence that such fiduciary is authorized to sign such document on behalf of the person from whom it is required.

(e) Failure to sign a return. If a taxpayer fails to sign a return within 30 days after proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed. Any overpayment of tax shown on the face of an unsigned return shall be considered forfeited if after notice and demand for signature by the Department the taxpayer fails to provide a signature and 3 years have passed from the date the return was filed. An overpayment of tax refunded to a taxpayer whose return was filed electronically shall be considered an erroneous refund under Section 912 of this Act if, after proper notice and demand by the Department, the taxpayer fails to provide a required signature document. A notice and demand for signature in the case of a return reflecting an overpayment may be made by first class mail. This subsection (e) shall apply to all returns filed pursuant to the Illinois Income Tax Act since 1969. (Source: P.A. 87-879; 88-480; 88-672, eff. 12-14-94; 89-399, eff. 8-20-95; 89-626, eff. 9-9-96.)

Sec. 504. Verification.

Each return or notice required to be filed under this Act shall contain or be verified by a written declaration that it is made under the

penalties of perjury. A taxpayer's signing a fraudulent return under this Act is perjury, as defined in Section 32-2 of the Criminal Code of 1961. (Source: P.A. 82-1009.)

Sec. 505. Time And Place For Filing Returns.

(a) In general. Returns required by this Act shall be filed at such place as the Department may by regulations prescribe.

(1) Corporations. Except as provided in paragraph (3), corporate returns shall be filed on or before the 15th day of the third month following the close of the taxable year, unless, subject to the provisions of Section 602, the Director grants an extension or extensions of time (not to exceed 6 months in the aggregate) for such filing, or unless the income or loss of a taxpayer is reported for federal purposes on a return with a due date later than the 15th day of the third month following the close of the taxable year, in which case the same due date shall apply to the corresponding Illinois return.

(2) Individuals, partnerships and fiduciaries. Except as provided in paragraph (3), individual, partnership and fiduciary returns shall be filed on or before the 15th day of the fourth month following the close of the taxable year, unless, subject to the provisions of Section 602, the Director grants an extension or extensions of time (not to exceed 6 months in the aggregate) for such filing, except that a final return of a decedent shall be filed at the time (including any extensions thereof) it would have been due if the decedent had not died.

(3) Certain Exempt Organizations. Organizations which are exempt from the Federal income tax by reason of Section 501(a) of the Internal Revenue Code who determine base income for a taxable year under subsection (a) of Section 205 (other than an employees' trust described in Section 401(a) of the Internal Revenue Code), shall file returns required by this Act on or before the 15th day of the 5th month following the close of the taxable year, unless, subject to the provisions of Section 602, the Director grants an extension or extensions of time (not to exceed 6 months in the aggregate) for such filing.

(b) Extension of time for filing federal return. When the taxpayer has been granted an extension or extensions of time within which to file his federal income tax return for any taxable year, the filing of a copy of such extension or extensions with the Department shall automatically extend the due date of the return with respect to the tax imposed by this Act for an equivalent period (plus an additional month beyond the federal extension in the case of corporations) if the requirements of Section 602 are met.

(c) Extension of time for filing when abroad. If an individual is living or traveling outside the United States and Puerto Rico on the 15th day of the 4th month following the close of his taxable year ending on or after December 31, 1983, the return required to be filed under Section 502 of this Act relative to that taxable year shall, in no event, be due prior to the 15th day of the 6th month following the close of that taxable year. In the case of a joint return filed in accordance with Section 502(c), the 2 month extension provided for in this subsection (c) is available if either spouse is living or traveling outside the United States and Puerto Rico on the 15th day of the 4th month following the close of the taxable year ending on or after December 31, 1983. Nothing in this subsection (c) shall be construed to extend the time in which the individual must pay the tax due under Section 601(a). (Source: P.A. 84-1400.)

Sec. 506. Federal Returns.

(a) In general. Any person required to make a return for a taxable year under this Act may, at any time that a deficiency could be assessed or a refund claimed under this Act in respect of any item reported or properly reportable on such return or any amendment thereof, be required to furnish to the Department a true and correct copy of any return which may pertain to such item and which was filed by such person under the provisions of the Internal Revenue Code.

(b) Changes affecting federal income tax. A person shall notify the Department if:

(1) the taxable income, any item of income or deduction, the income tax liability, or any tax credit reported in an original or amended federal income tax return of that person for any year or as determined by the Internal Revenue Service or the courts is altered by amendment of such return or as a result of any other recomputation or redetermination of federal taxable income or loss, and such alteration reflects a change or settlement with respect to any item or items, affecting the computation of such person's net income, net loss, or of any credit provided by Article 2 of this Act for any year under this Act, or in the number of personal exemptions allowable to such person under Section 151 of the Internal Revenue Code, or

(2) the amount of tax required to be withheld by that person from compensation paid to employees and required to be reported by that person on a federal return is altered by amendment of the return or by any other recomputation or redetermination that is agreed to or finally determined on or after January 1, 2003, and the alteration affects the amount of compensation subject to withholding by that person under Section 701 of this Act.

Such notification shall be in the form of an amended return or such other form as the Department may by regulations prescribe, shall contain the person's name and address and such other information as the Department may by regulations prescribe, shall be signed by such person or his duly authorized representative, and shall be filed not later than 120 days after such alteration has been agreed to or finally determined for federal income tax purposes or any federal income tax deficiency or refund, tentative carryback adjustment, abatement or credit resulting therefrom has been assessed or paid, whichever shall first occur. (Source: P.A. 90-491, eff. 1-1-98.)

Sec. 506.5. Returns Based On Substitute W-2 Forms.

For a taxpayer who has received wages from an employer in Illinois, loses or was not provided a W-2 form, is unable to obtain a duplicate W-2 form from the employer, and subsequently obtains a substitute W-2 form from the Internal Revenue Service, it shall be presumed that tax was withheld under Article 7 of this Act in an appropriate amount based on the number of withholding exemptions used to determine the federal income tax withholding for the taxpayer if (i) the substitute W-2 form indicates the appropriate amount of federal taxes withheld, (ii) the taxpayer files a copy of the substitute W-2 form with his or her Illinois income tax return, and (iii) the taxpayer provides a mailing address to which any correspondence or refund, if any, may be sent. (Source: P.A. 88-669, eff. 11-29-94.)

Sec. 507. Child Abuse Prevention Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Child Abuse Prevention Fund created by Section 4a of "An Act creating the Department of Children and Family Services, codifying its powers and duties, and repealing certain Acts and Sections herein named", approved June 4, 1963, as amended, he or she may do so by stating the amount of such contribution (not less than $1) on such return and that such contributions will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

If, on October 1 of any year, the total contributions made pursuant to this Section do not equal $100,000 or more, the explanations and spaces for designating contributions shall be removed from the individual income tax return forms for the following and all subsequent years and all subsequent contributions to such fund shall be refunded to the taxpayer.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 86-678.)

Sec. 507A. Community Health Center Care Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Community Health Center Care Fund created by this amendatory Act of 1989, he or she may do so by stating the amount of such contribution (not less than $1) on such return and that such contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 86-996.)

Sec. 507B. Child Care Expansion Program Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Child Care Expansion Program Fund created by this amendatory Act of 1989, he or she may do so by stating the amount of such contribution (not less than $1) on such return and that such contributions will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 86-995.)

Sec. 507C. Youth Drug Abuse Prevention Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Youth Drug Abuse Prevention Fund as authorized by this amendatory Act of 1991, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 87-342.)

Sec. 507E. Assistive Technology For Persons With Disabilities Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Assistive Technology for Persons with Disabilities Fund created by this amendatory Act of 1991, he or she may do so by stating the amount of that contribution, which may not be less than $1, on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment required to accompany the return. Failure to remit the appropriate increase in the payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 87-342.)

Sec. 507F. Domestic Violence Shelter And Service Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Domestic Violence Shelter and Service Fund, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 87-342.)

Sec. 507G. United States Olympians Assistance Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the United States Olympians Assistance Fund created by this amendatory Act of 1991, he or she may do so by stating the amount of such contribution (not less than $1) on such return and that such contributions will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 87-342.)

Sec. 507H. Persian Gulf Conflict Veterans Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Persian Gulf Conflict Veterans Fund, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contributions will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 87-119; 87-895.)

Sec. 507I. Literacy Advancement Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Literacy Advancement Fund created by this amendatory Act of 1992, he or she may do so by stating the amount of that contribution, which may not be less than $1, on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment required to accompany the return. Failure to remit the appropriate increase in the payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 87-992.)

Sec. 507J. Ryan White Pediatric And Adult AIDS Fund Checkoff.

Beginning with taxable years ending on December 31, 1993, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Ryan White Pediatric and Adult AIDS Fund, as authorized by this amendatory Act of 1993, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 88-459.)

Sec. 507K. Illinois Special Olympics Checkoff.

Beginning with taxable years ending on December 31, 1993, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Illinois Special Olympics Checkoff Fund as authorized by this amendatory Act of 1993, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 88-459.)

Sec. 507L. Penny Severns Breast And Cervical Cancer Research Fund Checkoff.

Beginning with taxable years ending on December 31, 1993, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Penny Severns Breast and Cervical Cancer Research Fund as authorized by this amendatory Act of the 91st General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of the payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return. (Source: P.A. 88-85; 88-459; 88-670, eff. 12-2-94; 91-107, eff. 7-13-99.)

Sec. 507M. Meals On Wheels Fund Checkoff.

If and only if a tax checkoff under this Act administered by the Department on Aging does not receive $100,000 by October 1, 1993, then beginning with taxable years ending on December 31, 1993, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Meals on Wheels Checkoff Fund as authorized by this amendatory Act of 1993, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 88-459.)

Sec. 507N. Korean War Memorial Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Korean War Memorial Fund, as authorized by this amendatory Act of 1994, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 88-666, eff. 9-16-94.)

Sec. 507O. Heart Disease Treatment And Prevention Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Heart Disease Treatment and Prevention Fund, as authorized by this amendatory Act of 1994, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 88-666, eff. 9-16-94.)

Sec. 507P. Hemophilia Treatment Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Hemophilia Treatment Fund, as authorized by this amendatory Act of 1994, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 88-666, eff. 9-16-94.)

Sec. 507Q. Women In Military Service Memorial Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Women in Military Service Memorial Fund, as authorized by this amendatory Act of 1995, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(This Section was repealed by P.A. 91-833 and P.A. 91-836 on June 16, 2000.) (Source: P.A. 89-230, eff. 1-1-96; 89-324, eff. 8-13-95.)

Sec. 507R. Mental Health Research Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Mental Health Research Fund, as authorized by this amendatory Act of 1997, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 90-171, eff. 7-23-97.)

Sec. 507S. Children's Cancer Fund Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Children's Cancer Fund, as authorized by this amendatory Act of 1997, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 90-171, eff. 7-23-97.)

Sec. 507T. American Diabetes Association Checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the American Diabetes Association Fund, as authorized by this amendatory Act of 1997, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(This Section was repealed by P.A. 92-84 on July 1, 2002.) (Source: P.A. 90-171, eff. 7-23-97.)

Sec. 507U. Prostate Cancer Research Fund checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Prostate Cancer Research Fund, as authorized by this amendatory Act of the 91st General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any

amended return. (Source: P.A. 91-104, eff. 7-13-99.)

Sec. 507V. National World War II Memorial Fund checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the National World War II Memorial Fund, as authorized by this amendatory Act of the 91st General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return. (Source: P.A. 90-171, Eff. 7-23-97.)

Sec. 507W. Korean War Veterans National Museum and Library Fund checkoff.

Beginning with taxable years ending on or after December 31, 2001, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Korean War Veterans National Museum and Library Fund, as authorized by this amendatory Act of the 92nd General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

Sec. 507X. The Multiple Sclerosis Assistance Fund checkoff.

Beginning with taxable years ending on or after December 31, 2002, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Multiple Sclerosis Assistance Fund, as authorized by this amendatory Act of the 92nd General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

Sec. 507Y. The Illinois Military Family Relief checkoff.

Beginning with taxable years ending on or after December 31, 2003, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Illinois Military Family Relief Fund, as authorized by this amendatory Act of the 92nd General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return. (Source: P.A. 95-331, eff. 8-21-07.)

Sec. 507Z. World War II Illinois Veterans Memorial Fund checkoff.

Beginning with taxable years ending on or after December 31, 2003, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the World War II Illinois Veterans Memorial Fund, as authorized by this amendatory Act of the 93rd General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return. The

Department shall clearly state in its instructions to taxpayers and shall make it clear on the tax return form itself that money donated to the World War II Illinois Veterans Memorial Fund will go to fund a World War II memorial to Illinois Veterans located in Springfield, Illinois and will not go to the World War II Memorial Fund created to fund a national World War II memorial in Washington, D.C.

Sec. 507AA. The Lou Gehrig's Disease (ALS) Research Fund checkoff. (PA 93-0036)

Beginning with the taxable year ending on December 31, 2003, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Lou Gehrig's Disease (ALS) Research Fund, as authorized by this amendatory Act of the 93rd General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on

the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce he contribution accordingly. This Section shall not apply to any amended return.

Sec. 507BB. Asthma and Lung Research checkoff. (PA 93-0292)

The Department must print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Asthma and Lung Research Fund, as authorized by this amendatory Act of the 93rd General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment reduces the contribution accordingly. This Section does not apply to an amended return.

Sec. 507CC. The Leukemia Treatment and Education checkoff. (PA 93-0324)

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Leukemia Treatment and Education Fund, as authorized by this amendatory Act of the 93rd General Assembly, he or she may do so be stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

Sec. 507DD. The Illinois Veterans' Homes Fund checkoff.

For taxable years ending on or after December 31, 2004, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Illinois Veterans' Homes Fund, as authorized by this amendatory Act of the 93rd General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

Sec. 507EE. Pet Population Control Fund checkoff. (P.A. 94-639)

The Department must print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Pet Population Control Fund, as established in the Illinois Public Health and Safety Animal Population Control Act, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

The Department of Revenue shall determine annually the total amount contributed to the Fund pursuant to this Section and shall notify the State Comptroller and the State Treasurer of the amount to be transferred to the Pet Population Control Fund, and upon receipt of the notification the State Comptroller shall transfer the amount.

(Source: P.A. 94-639, eff. 8-22-05.)

Sec. 507FF. Epilepsy Treatment and Education Grants-in-Aid Fund checkoff.

The Department must print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Epilepsy Treatment and Education Grants-in-Aid Fund, as authorized by Public Act 94-73, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

(Source: P.A. 94-73, eff. 6-23-05.)

Sec. 507GG. Diabetes Research Checkoff Fund checkoff.

For taxable years ending on or after December 31, 2005, the Department must print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Diabetes Research Checkoff Fund, as authorized by Public 94-107, he or she may do so

by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section does not apply to any amended return.

(Source: P.A. 94-107, eff. 7-1-05.)

Sec. 507HH. Sarcoidosis Research Fund checkoff.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Sarcoidosis Research Fund, as authorized by Public Act 94-141, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(Source: P.A. 94-141, eff. 1-1-06.)

Sec. 507II. The Vince Demuzio Memorial Colon Cancer Fund checkoff.

For taxable years ending on or after December 31, 2005, the Department must print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Vince Demuzio Memorial Colon Cancer Fund, as authorized by Public Act 94-142, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section does not apply to any amended return.

(Source: P.A. 94-142, eff. 1-1-06.)

Sec. 507JJ. The Autism Research Checkoff Fund checkoff.

For taxable years ending on or after December 31, 2005, the Department must print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Autism Research Checkoff Fund, as authorized by Public Act 94-442, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section does not apply to any amended return.

(Source: P.A. 94-442, eff. 8-4-05.)

Sec. 507KK. Blindness Prevention Fund checkoff.

For taxable years ending on or after December 31, 2005, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Blindness Prevention Fund, as authorized by Public Act 94-602, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

(Source: P.A. 94-602, eff. 8-16-05.)

Sec. 507LL. The Illinois Brain Tumor Research checkoff.

For taxable years ending on or after December 31, 2005, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Illinois Brain Tumor Research Fund, as authorized by Public Act 94-649, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to any amended return.

Sec. 507MM. Supplemental Low-Income Energy Assistance Fund checkoff.

Beginning with taxable years ending on December 31, 2006, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Supplemental Low-Income Energy Assistance Fund as authorized by this amendatory

Act of the 94th General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of the payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

Sec. 507NN. The Heartsaver AED Fund checkoff. (P.A. 94-876)

For taxable years ending on or after December 31, 2005, the Department must print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Heartsaver AED Fund, as authorized by this amendatory Act of the 94th General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section does not apply to any amended return.

Sec. 507PP. The lung cancer research checkoff. (Public Act 95-434)

For taxable years ending on or after December 31, 2007, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Lung Cancer Research Fund, as authorized by this amendatory Act of the 95th General Assembly, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507QQ. The autoimmune disease research checkoff. (Public Act 95-435)

For taxable years ending on or after December 31, 2007, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Autoimmune Disease Research Fund, as authorized by this amendatory Act of the 95th General Assembly, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507RR. The Healthy Smiles Fund checkoff.

For taxable years ending on or after December 31, 2008, the Department must print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Healthy Smiles Fund, as authorized by this amendatory Act of the 95th General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section does not apply to any amended return.

Sec. 507SS. The hunger relief checkoff.

For taxable years ending on or after December 31, 2009, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Hunger Relief Fund, as authorized by Public Act 96-604, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507TT. The crisis nursery checkoff.

For taxable years ending on or after December 31, 2009, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Crisis Nursery Fund, as authorized by Public Act 96-627, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507UU. The Illinois Route 66 checkoff.

For taxable years ending on or after December 31, 2010, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Illinois Route 66 Fund, as authorized by this amendatory Act of the 96th General Assembly, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507VV. Habitat for Humanity Fund checkoff.

For taxable years ending on or after December 31, 2010, the Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Habitat for Humanity Fund as authorized by this amendatory Act of the 96th General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and that the contribution will reduce the taxpayer's refund or increase the amount of the payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return.

Sec. 507WW. The State parks checkoff.

For taxable years ending on or after December 31, 2010, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the State Parks Fund, as authorized by this amendatory Act of the 96th General Assembly, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507XX. The disabled veterans property tax relief checkoff.

For taxable years ending on or after December 31, 2010, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Disabled Veterans Property Tax Relief Fund, as authorized by this amendatory Act of the 96th General Assembly, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507YY. Crime Stoppers checkoff.

For taxable years ending on or after December 31, 2011, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Illinois State Crime Stoppers Association Fund, as authorized by this amendatory Act of the 97th General Assembly, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507ZZ. After-School Rescue Fund checkoff.

For taxable years ending on or after December 31, 2011, the Department must print on its standard individual income tax form a provision (i) indicating that if the taxpayer wishes to contribute to the After-School Rescue Fund, as authorized by this amendatory Act of the 97th General Assembly, he or she may do so by stating the amount of the contribution (not less than $1) on the return and (ii) stating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section does not apply to any amended return.

Sec. 507AAA. The Childhood Cancer Research Fund checkoff.

For taxable years ending on or after December 31, 2012, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Childhood Cancer Research Fund, as authorized by this amendatory Act of the 97th General Assembly, then he or she may do so by

stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

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Sec. 507BBB. The Children's Wellness Charities Fund checkoff.

For taxable years ending on or after December 31, 2012, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Children's Wellness Charities Fund, as authorized by this amendatory Act of the 97th General Assembly, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 507CCC. The Housing for Families Fund checkoff.

For taxable years ending on or after December 31, 2012, the Department shall print, on its standard individual income tax form, a provision indicating that, if the taxpayer wishes to contribute to the Housing for Families Fund, as authorized by this amendatory Act of the 97th General Assembly, then he or she may do so by stating the amount of the contribution (not less than $1) on the return and indicating that the contribution will reduce the taxpayer's refund or increase the amount of payment to accompany the return. The taxpayer's failure to remit any amount of the increased payment reduces the contribution accordingly. This Section does not apply to any amended return.

Sec. 508. Transfer Of Checkoff Funds.

The Department shall determine on October 1 of each year the total amount contributed to the Child Abuse Prevention Fund pursuant to this Act and shall notify the State Comptroller and the State Treasurer of such amount to be transferred to the Child Abuse Prevention Fund, and upon receipt of such notification the State Treasurer and Comptroller shall transfer such amount. (Source: P.A. 85-731.)

Sec. 509. Tax checkoff explanations.

(a) All individual income tax return forms shall contain appropriate explanations and spaces to enable the taxpayers to designate contributions to the funds to which contributions may be made under this Article 5.

(b) Each form shall contain a statement that the contributions will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly.

(c) If, on October 1 of any year, the total contributions to any one of the funds made under this Article 5 do not equal $100,000 or more, the explanations and spaces for designating contributions to the fund shall be removed from the individual income tax return forms for the following and all subsequent years and all subsequent contributions to the fund shall be refunded to the taxpayer. This contribution requirement does not apply to the Diabetes Research Checkoff Fund checkoff contained in Section 507GG of this Act.

(d) Notwithstanding any other provision of law, the Department shall include the Hunger Relief Fund checkoff established under Section 507SS on the individual income tax form for the taxable year beginning on January 1, 2012. If, on October 1, 2013, or on October 1 of any subsequent year, the total contributions to the Hunger Relief Fund checkoff do not equal $100,000 or more, the explanations and spaces for designating contributions to the fund shall be removed from the individual income tax return forms for the following and all subsequent years and all subsequent contributions to the fund shall be refunded to the taxpayer.

Sec. 509.1. Removal of excess tax-checkoff funds.

Notwithstanding any provisions of this Act to the contrary, beginning on the effective date of this amendatory Act of the 95th General Assembly, there may not be more than 15 tax-checkoff funds contained on the individual tax return form at any one time. Each year, the Department shall determine whether the sum of (i) the number of new tax-checkoff funds created by the General Assembly during that year plus (ii) the number of tax-checkoff funds that collected at least

$100,000 during the previous year exceeds 15. If so, then the Department shall remove a number of tax-checkoff funds that were on the return during the previous year that is equal to the sum of items (i) and (ii) minus 15, starting with the tax-checkoff fund that received the least amount of contributions and working upward until a sufficient number of funds have been removed. The Hunger Relief Fund checkoff established under Section 507SS shall be included among the 15 tax-checkoff funds as provided in subsection (d) of Section 509 of this Act.

For taxable years ending on or after December 31, 2012, the Diabetes Research Checkoff Fund checkoff contained in Section 507GG of this Act shall be included on the individual tax return form notwithstanding the provisions of this Section. The Diabetes Research Checkoff Fund checkoff shall not be included when calculating the 15 tax-checkoff fund limitation set forth in this Section.

Sec. 510. Determination of amounts contributed.

The Department shall determine the total amount contributed to each of the funds under this Article 5 and shall notify the State Comptroller and the State Treasurer of the amounts to be transferred from the General Revenue Fund to each fund, and upon receipt of such notification the State Treasurer and Comptroller shall transfer the amounts.

Sec. 511. Refunds.

Unless the Department is contesting an individual income tax refund due to any taxpayer, the Department shall provide the Comptroller with authorization for such refund to the taxpayer within 120 days of the date on which the return is received by the Department, as long as there are available funds from which to pay such refunds. (Source: P.A. 84-1079.)

Sec. 512. School District Information.

(a) All individual income tax return forms for tax years ending December 31, 1986 through December 30, 1995 shall contain an appropriate space in which the taxpayer must indicate either (i) the name and number of the high school district in which they reside on the date such return is filed, or (ii) the name and number of the unit school district in which they reside on the date such return is filed. Failure of the taxpayer to insert such information shall not invalidate the return.

(b) For all tax years ending December 31, 1995 and thereafter, the Department shall provide the State Board of Education with information on individual income tax receipts by school district from the data collected by the Geographic Information System maintained by the Department. (Source: P.A. 89-21, eff. 7-1-95.)

Sec. 516. Assistance To The Homeless Fund.

The Department shall print on its standard individual income tax form a provision indicating that if the taxpayer wishes to contribute to the Assistance to the Homeless Fund created by this amendatory Act of 1989, he or she may do so by stating the amount of such contribution (not less than $1) on such return and that such contributions will reduce the taxpayer's refund or increase the amount of payment to accompany the return. Failure to remit any amount of increased payment shall reduce the contribution accordingly. This Section shall not apply to an amended return. (Source: P.A. 86-960.)

ARTICLE 6. PAYMENTS.

Sec. 601. Payment on Due Date of Return.

(a) In general. Every taxpayer required to file a return under this Act shall, without assessment, notice or demand, pay any tax due thereon to the Department, at the place fixed for filing, on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return) pursuant to regulations prescribed by the Department. If, however, the due date for payment of a taxpayer's federal income tax liability for a tax year (as provided in the Internal Revenue Code or by Treasury regulation, or as extended by the Internal Revenue Service) is later than the date fixed for filing the taxpayer's Illinois income tax return for that tax year, the Department may, by rule, prescribe a due date for payment that is not later than the due date for payment of the taxpayer's federal income tax liability. For purposes of the Illinois Administrative Procedure Act, the adoption of rules to prescribe a later due date for payment shall be deemed an emergency and necessary for the public interest, safety, and welfare.

(b) Amount payable. In making payment as provided in this section there shall remain payable only the balance of such tax remaining due after giving effect to the following:

(1) Withheld tax. Any amount withheld during any calendar year pursuant to Article 7 from compensation paid to a taxpayer shall be deemed to have been paid on account of any tax imposed by subsections 201(a) and (b) of this Act on such taxpayer for his taxable year beginning in such calendar year. If more than one taxable year begins in a calendar year, such amount shall be deemed to have been paid on account of such tax for the last taxable year so beginning.

(2) Estimated and tentative tax payments. Any amount of estimated tax paid by a taxpayer pursuant to Article 8 for a taxable year shall be deemed to have been paid on account of the tax imposed by this Act for such taxable year.

(3) Foreign tax. The aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by subsections 201(a) and (b) of this Act shall be credited against the tax imposed by subsections 201(a) and (b) otherwise due under this Act for such taxable year. For taxable years ending prior to December 31, 2009, the aggregate credit provided under this paragraph shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year. For taxable years ending on or after December 31, 2009, the credit provided under this paragraph for tax paid to other states shall not exceed that amount which bears the same ratio to the tax imposed by subsections 201(a) and (b) otherwise due under this Act as the amount of the taxpayer's base income that would be allocated or apportioned to other states if all other states had adopted the provisions in Article 3 of this Act bears to the taxpayer's total base income subject to tax by this State for the taxable year. The credit provided by this paragraph shall not be allowed if any creditable tax was deducted in determining base income for the taxable year. Any person claiming such credit shall attach a statement in support thereof and shall notify the Director of any refund or reductions in the amount of tax claimed as a credit hereunder all in such manner and at such time as the Department shall by regulations prescribe.

(4) Accumulation and capital gain distributions. If the net income of a taxpayer includes amounts included in his base income by reason of Section 667 of the Internal Revenue Code (relating to accumulation and capital gain distributions by a trust, respectively), the tax imposed on such taxpayer by this Act shall be credited with his pro rata portion of the taxes imposed by this Act on such trust for preceding taxable years which would not have been payable for such preceding years if the trust had in fact made distributions to its beneficiaries at the times and in the amounts specified in Sections 666 and 669 of the Internal Revenue Code. The credit provided by this paragraph shall not reduce the tax otherwise due from the taxpayer to an amount less than that which would be due if the amounts included by reason of Section 667 of the Internal Revenue Code were excluded from his or her base income.

(c) Cross reference. For application against tax due of overpayments of tax for a prior year, see Section 909. (Source: P.A. 94-247, eff. 1-1-06.)

Sec. 601.1. Payment by electronic funds transfer.

(a) Beginning on October 1, 1993, a taxpayer who has an average monthly tax liability of $150,000 or more under Article 7 of this Act shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1993, a taxpayer who has an average quarterly estimated tax payment obligation of $450,000 or more under Article 8 of this Act shall make all payments required by rules of the Department by electronic funds transfer. Beginning on October 1, 1994, a taxpayer who has an average monthly tax liability of $100,000 or more under Article 7 of this Act shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average quarterly estimated tax payment obligation of $300,000 or more under Article 8 of this Act shall make all payments required by rules of the Department by electronic funds transfer. Beginning on October 1, 1995, a taxpayer who has an average monthly tax liability of $50,000 or more under Article 7 of this Act shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average quarterly estimated tax payment obligation of $150,000 or more under Article 8 of this Act shall make all payments required by rules of the Department by electronic funds transfer. Beginning on October 1, 2000, and for all liability periods thereafter, a taxpayer who has an average annual

tax liability of $200,000 or more under Article 7 of this Act shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an average quarterly estimated tax payment obligation of $50,000 or more under Article 8 of this Act shall make all payments required by rules of the Department by electronic funds transfer. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

(b) Any taxpayer who is not required to make payments by electronic funds transfer may make payments by electronic funds transfer with the permission of the Department.

(c) All taxpayers required to make payments by electronic funds transfer and any taxpayers who wish to voluntarily make payments by electronic funds transfer shall make those payments in the manner authorized by the Department.

(d) The Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers notified by the Department shall make payments by electronic funds transfer for a minimum of one year beginning on October 1. In determining the threshold amounts under subsection (a), the Department shall calculate the averages as follows:

(1) the total liability under Article 7 for the preceding tax year (and, prior to October 1, 2000, divided by 12); or

(2) for purposes of estimated payments under Article 8, the total tax obligation of the taxpayer for the previous tax year divided by 4.

(e) The Department shall adopt such rules as are necessary to effectuate a program of electronic funds transfer and the requirements of this Section. (Source: P.A. 91-541, eff. 8-13-99; 92-492, eff. 1-1-02.)

Sec. 602. Tentative Payments.

(a) In general. Pursuant to Section 505, the Department may promulgate regulations to provide automatic extensions of the time for filing a return. In connection with any other extension provided under Section 505 of the time for filing a return, the taxpayer shall file a tentative tax return and pay, on or before the date prescribed by law for the filing of such return (determined without regard to any extensions of time for such filing), the amount properly estimated as his tax for the taxable year.

(b) Interest and Penalty. Interest and penalty on any amount of tax due and unpaid for the period of any extension shall be payable as provided by the Uniform Penalty and Interest Act. However, if the taxpayer is a member, or, in the case of a joint return, the spouse of a member, of the United States Armed Forces serving in a combat zone and subject to a filing extension in accordance with a proclamation by the President of the United States pursuant to Section 7508 of the Internal Revenue Code, no interest or penalty shall be applicable for the taxable year ending on and after December 31, 1990. (Source: P.A. 87-205; 87-339; 87-895.)

Sec. 603. Credit Of Overpayments For Taxpayers That Are Members Of A Unitary Business Group.

(Repealed). (Source: Repealed by P.A. 88-195.)

Sec. 604. Payments Not Payable To Department.

Any payment to the Department which is made by a check or money order not payable to the Department shall, within 15 days after receipt thereof, be returned by the Department to the taxpayer who submitted such check or money order or, if the amount of payment is equal to the amount owed to the State of Illinois, the Department may deposit such check. (Source: P.A. 86-977.)

Sec. 605. Payments By Credit Card.

The Department may adopt rules and regulations for payment of taxes due under this Act by credit card only when the Department is not required to pay a discount fee charged by the credit card issuer. (Source: P.A. 87-1175; 87-1189.)

Sec. 606. EDGE payment.

A payment includes a payment provided for in subsection (g) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act.

ARTICLE 7. WITHHOLDING TAX.

Sec. 701. Requirement and Amount of Withholding.

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

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

(2) payments described in subsection (b) shall deduct and withhold from such compensation for each payroll period (as defined in Section 3401 of the Internal Revenue Code) an amount equal to the amount by which such individual's compensation exceeds the proportionate part of this withholding exemption (computed as provided in Section 702) attributable to the payroll period for which such compensation is payable multiplied by a percentage equal to the percentage tax rate for individuals provided in subsection (b) of Section 201.

(b) Payment to Residents.

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

(c) Special Definitions.

Withholding shall be considered required under the provisions of the Internal Revenue Code to the extent the Internal Revenue Code either requires withholding or allows for voluntary withholding the payor and recipient have entered into such a voluntary withholding agreement. For the purposes of Article 7 and Section 1002 (c) the term "employer" includes any payor who is required to withhold tax pursuant to this Section.

(d) Reciprocal Exemption.

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

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

(Source: P.A. 90-491, eff. 1-1-98; 91-239, eff. 1-1-00.)

Sec. 702. Amount Exempt From Withholding.

For purposes of this Section an employee shall be entitled to a withholding exemption in an amount equal to the basic amount in Section 204(b) for each personal or dependent exemption which he is entitled to claim on his federal return pursuant to Section 151 of the Internal Revenue Code; plus an allowance equal to $1,000 for each $1,000 he is entitled to deduct from gross income in arriving at adjusted gross income pursuant to Section 62 of the Internal Revenue Code; plus an additional allowance equal to $1,000 for each $1,000 eligible for subtraction on his Illinois income tax return as Illinois real estate taxes paid during the taxable year; or in any lesser amount claimed by him. Every employee shall furnish to his employer such information as is required for the employer to make an accurate withholding under this Act. The employer may rely on this information for withholding purposes. If any employee fails or refuses to furnish such information, the employer shall withhold the full rate of tax from the employee's total compensation. (Source: P.A. 85-731; 90-613, eff. 7-9-98.)

Sec. 703. Information Statement.

Every employer required to deduct and withhold tax under this Act from compensation of an employee, or who would have been required so to deduct and withhold tax if the employee's

withholding exemption were not in excess of the basic amount in Section 204(b), shall furnish in duplicate to each such employee in respect of the compensation paid by such employer to such employee during the calendar year on or before January 31 of the succeeding year, or, if his employment is terminated before the close of such calendar year, on the date on which the last payment of compensation is made, a written statement in such form as the Department may by regulation prescribe showing the amount of compensation paid by the employer to the employee, the amount deducted and withheld as tax, and such other information as the Department shall prescribe. A copy of such statement shall be filed by the employee with his return for his taxable year to which it relates (as determined under section 601(b) (1). (Source: P.A. 90-613, eff. 7-9-98.)

Sec. 704. Employer's Return and Payment of Tax Withheld.

(a) In general, every employer who deducts and withholds or is required to deduct and withhold tax under this Act prior to January 1, 2008, shall make such payments and returns as provided in this Section.

(b) Quarter Monthly Payments: Returns. Every employer who deducts and withholds or is required to deduct and withhold tax under this Act shall, on or before the third banking day following the close of a quarter monthly period, pay to the Department or to a depositary designated by the Department, pursuant to regulations prescribed by the Department, the taxes so required to be deducted and withheld, whenever the aggregate amount withheld by such employer (together with amounts previously withheld and not paid to the Department) exceeds $1,000. For purposes of this Section, Saturdays, Sundays, legal holidays and local bank holidays are not banking days. A quarter monthly period, for purposes of this subsection, ends on the 7th, 15th, 22nd and last day of each calendar month. Every such employer shall for each calendar quarter, on or before the last day of the first month following the close of such quarter, and for the calendar year, on or before January 31 of the succeeding calendar year, make a return with respect to such taxes in such form and manner as the Department may by regulations prescribe, and pay to the Department or to a depositary designated by the Department all withheld taxes not previously paid to the Department.

(c) Monthly Payments: Returns. Every employer required to deduct and withhold tax under this Act shall, on or before the 15th day of the second and third months of each calendar quarter, and on or before the last day of the month following the last month of each such quarter, pay to the Department or to a depositary designated by the Department, pursuant to regulations prescribed by the Department, the taxes so required to be deducted and withheld, whenever the aggregate amount withheld by such employer (together with amounts previously withheld and not paid to the Department) exceeds $500 but does not exceed $1,000. Every such employer shall for each calendar quarter, on or before the last day of the first month following the close of such quarter, and for the calendar year, on or before January 31 of the succeeding calendar year, make a return with respect to such taxes in such form and manner as the Department may by regulations prescribe, and pay to the Department or to a depositary designated by the Department all withheld taxes not previously paid to the Department.

(d) Annual Payments: Returns. Where the amount of compensation paid by an employer is not sufficient to require the withholding of tax from the compensation of any of its employees (or where the aggregate amount withheld is less than $500), the Department may by regulation permit such employer to file only an annual return and to pay the taxes required to be deducted and withheld at the time of filing such annual return.

(e) Annual Return. The Department may, as it deems appropriate, prescribe by regulation for the filing of annual returns in lieu of quarterly returns described in subsections (b) and (c).

(e-5) Annual Return and Payment. On and after January 1, 1998, notwithstanding subsections (b) through (d) of this Section, every employer who deducts and withholds or is required to deduct and withhold tax from a person engaged in domestic service employment, as that term is defined in Section 3510 of the Internal Revenue Code, may comply with the requirements of this Section by filing an annual return and paying the taxes required to be deducted and withheld on or before the 15th day of the fourth month following the close of the employer's taxable year. The annual return may be submitted with the employer's individual income tax return.

(f) Magnetic Media Filing. Forms W-2 that, pursuant to the Internal Revenue Code and regulations promulgated thereunder, are required to be submitted to the Internal Revenue Service on magnetic media, must also be submitted to the Department on magnetic media for Illinois

purposes, if required by the Department. (Source: P.A. 90-374, eff. 8-14-97; 90-562, eff. 12-16-97.)

Sec. 704A. Employer's return and payment of tax withheld.

(a) In general, every employer who deducts and withholds or is required to deduct and withhold tax under this Act on or after January 1, 2008 shall make those payments and returns as provided in this Section.

(b) Returns. Every employer shall, in the form and manner required by the Department, make returns with respect to taxes withheld or required to be withheld under this Article 7 for each quarter beginning on or after January 1, 2008, on or before the last day of the first month following the close of that quarter.

(c) Payments. With respect to amounts withheld or required to be withheld on or after January 1, 2008:

(1) Semi-weekly payments. For each calendar year, each employer who withheld or was required to withhold more than $12,000 during the one-year period ending on June 30 of the immediately preceding calendar year, payment must be made:

(A) on or before each Friday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Saturday, Sunday, Monday, or Tuesday;

(B) on or before each Wednesday of the calendar year, for taxes withheld or required to be withheld on the immediately preceding Wednesday, Thursday, or Friday.

Beginning with calendar year 2011, payments made under this paragraph (1) of subsection (c) must be made by electronic funds transfer.

(2) Semi-weekly payments. Any employer who withholds or is required to withhold more than $12,000 in any quarter of a calendar year is required to make payments on the dates set forth under item (1) of this subsection (c) for each remaining quarter of that calendar year and for the subsequent calendar year.

(3) Monthly payments. Each employer, other than an employer described in items (1) or (2) of this subsection, shall pay to the Department, on or before the 15th day of each month the taxes withheld or required to be withheld during the immediately preceding month.

(4) Payments with returns. Each employer shall pay to the Department, on or before the due date for each return required to be filed under this Section, any tax withheld or required to be withheld during the period for which the return is due and not previously paid to the Department.

(d) Regulatory authority. The Department may, by rule:

(1) Permit employers, in lieu of the requirements of subsections (b) and (c), to file annual returns due on or before January 31 of the year for taxes withheld or required to be withheld during the previous calendar year and, if the aggregate amounts required to be withheld by the employer under this Article 7 (other than amounts required to be withheld under Section 709.5) do not exceed $1,000 for the previous calendar year, to pay the taxes required to be shown on each such return no later than the due date for such return.

(2) Provide that any payment required to be made under subsection (c)(1) or (c)(2) is deemed to be timely to the extent paid by electronic funds transfer on or before the due date for deposit of federal income taxes withheld from, or federal employment taxes due with respect to, the wages from which the Illinois taxes were withheld.

(3) Designate one or more depositories to which payment of taxes required to be withheld under this Article 7 must be paid by some or all employers.

(4) Increase the threshold dollar amounts at which employers are required to make semi-weekly payments under subsection (c)(1) or (c)(2).

(e) Annual return and payment. Every employer who deducts and withholds or is required to deduct and withhold tax from a person engaged in domestic service employment, as that term is defined in Section 3510 of the Internal Revenue Code, may comply with the requirements of this Section with respect to such employees by filing an annual return and paying the taxes required to be deducted and withheld on or before the 15th day of the fourth month following the close of the employer's taxable year. The Department may allow the employer's return to be submitted with the employer's individual income tax return or to be submitted with a return due from the employer under Section 1400.2 of the Unemployment Insurance Act.

(f) Magnetic media and electronic filing. Any W-2 Form that, under the Internal Revenue

Code and regulations promulgated thereunder, is required to be submitted to the Internal Revenue Service on magnetic media or electronically must also be submitted to the Department on magnetic media or electronically for Illinois purposes, if required by the Department.

(g) For amounts deducted or withheld after December 31, 2009, a taxpayer who makes an election under subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act for a taxable year shall be allowed a credit against payments due under this Section for amounts withheld during the first calendar year beginning after the end of that taxable year equal to the amount of the credit for the incremental income tax attributable to full-time employees of the taxpayer awarded to the taxpayer by the Department of Commerce and Economic Opportunity under the Economic Development for a Growing Economy Tax Credit Act for the taxable year and credits not previously claimed and allowed to be carried forward under Section 211(4) of this Act as provided in subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act. The credit or credits may not reduce the taxpayer's obligation for any payment due under this Section to less than zero. If the amount of the credit or credits exceeds the total payments due under this Section with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under this Section in the succeeding calendar years as allowed to be carried forward under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first. Each employer who deducts and withholds or is required to deduct and withhold tax under this Act and who retains income tax withholdings under subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act must make a return with respect to such taxes and retained amounts in the form and manner that the Department, by rule, requires and pay to the Department or to a depositary designated by the Department those withheld taxes not retained by the taxpayer. For purposes of this subsection (g), the term taxpayer shall include taxpayer and members of the taxpayer's unitary business group as defined under paragraph (27) of subsection (a) of Section 1501 of this Act. This Section is exempt from the provisions of Section 250 of this Act.

(h) An employer may claim a credit against payments due under this Section for amounts withheld during the first calendar year ending after date on which a tax credit certificate was issued under Section 35 of the Small Business Job Creation Tax Credit Act. The credit shall be equal to the amount shown on the certificate, but may not reduce the taxpayer's obligation for any payment due under this Section to less than zero. If the amount of the credit exceeds the total payments due under this Section with respect to amounts withheld during the calendar year, the excess may be carried forward and applied against the taxpayer's liability under this Section in the 5 succeeding calendar years. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one calendar year that are available to offset a liability, the earlier credit shall be applied first. This Section is exempt from the provisions of Section 250 of this Act.

Sec. 705. Employer's Liability For Withheld Taxes.

Every employer who deducts and withholds or is required to deduct and withhold tax under this Act is liable for such tax. For purposes of assessment and collection, any amount withheld or required to be withheld and paid over to the Department, and any penalties and interest with respect thereto, shall be considered the tax of the employer. Any amount of tax actually deducted and withheld under this Act shall be held to be a special fund in trust for the Department. No employee shall have any right of action against his employer in respect of any money deducted and withheld from his wages and paid over to the Department in compliance or in intended compliance with this Act. (Source: P.A. 82-1009.)

Sec. 706. Employer's Failure To Withhold.

If an employer fails to deduct and withhold any amount of tax as required under this Act, and thereafter the tax on account of which such amount was required to be deducted and withheld is paid, such amount of tax shall not be collected from the employer, but the employer shall not be relieved from liability for penalties or interest otherwise applicable in respect of such failure to deduct and withhold. (Source: P.A. 76-261.)

Sec. 707. Governmental Employers.

If the employer is the United States, or a state, Territory, or political subdivision thereof, or

the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, the return of the amount deducted and withheld upon any compensation may be made by any officer or employee of the United States, or of such state, Territory, or political subdivision, or of the District of Columbia, or of such agency or instrumentality, as the case may be, having control of the payment of such compensation, or appropriately designated for that purpose. (Source: P.A. 76-261.)

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

(a) In general. For each taxable year ending on or after December 31, 2008, every partnership (other than a publicly traded partnership under Section 7704 of the Internal Revenue Code or investment partnership), Subchapter S corporation, and trust must withhold from each nonresident partner, shareholder, or beneficiary (other than a partner, shareholder, or beneficiary who is exempt from tax under Section 501(a) of the Internal Revenue Code or under Section 205 of this Act, who is included on a composite return filed by the partnership or Subchapter S corporation for the taxable year under subsection (f) of Section 502 of this Act), or who is a retired partner, to the extent that partner's distributions are exempt from tax under Section 203(a)(2)(F) of this Act) an amount equal to the sum of (i) the share of business income of the partnership, Subchapter S corporation, or trust apportionable to Illinois plus (ii) for taxable years ending on or after December 31, 2014, the share of nonbusiness income of the partnership, Subchapter S corporation, or trust allocated to Illinois under Section 303 of this Act (other than an amount allocated to the commercial domicile of the taxpayer under Section 303 of this Act) that is distributable to that partner, shareholder, or beneficiary under Sections 702 and 704 and Subchapter S of the Internal Revenue Code, whether or not distributed, (iii) multiplied by the applicable rates of tax for that partner, shareholder, or beneficiary under subsections (a) through (d) of Section 201 of this Act, and (iv) net of the share of any credit under Article 2 of this Act that is distributable by the partnership, Subchapter S corporation, or trust and allowable against the tax liability of that partner, shareholder, or beneficiary for a taxable year ending on or after December 31, 2014.

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

(c) Exemption from withholding.

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

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

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

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

(3) A partnership, S corporation, or trust that receives a certificate under this subsection (c) properly completed by a nonresident partner, shareholder, or beneficiary shall not be required to withhold any amount from that partner, shareholder, or beneficiary, the payment of which would be due under Section 711(a-5) of this Act after the receipt of the certificate and no earlier than 60 days after the Department has notified the partnership, S corporation, or trust that the certificate has been revoked.

(4) Certificates received by a the partnership, S corporation, or trust under this subsection (c) must be retained by the partnership, S corporation, or trust and a record of such certificates must be provided to the Department, in a format in which the record is available for review by the Department, upon request by the Department. The Department may, by rule, require the record of certificates to be maintained and provided to the Department electronically. (Source: P.A. 95-233, eff. 8-16-07.)

Sec. 710. Withholding From Lottery Winnings.

(a) In General.

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

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

(b) Credit for taxes withheld. Any amount withheld under Subsection (a) shall be a credit against the Illinois income tax liability of the person to whom the payment of winnings was made for the taxable year in which that person incurred an Illinois income tax liability with respect to those winnings. (Source: P.A. 85-731.)

Sec. 711. Payor's Return and Payment of Tax Withheld.

(a) In general. Every payor required to deduct and withhold tax under Section 710 shall be subject to the same reporting requirements regarding taxes withheld and the same monthly and quarter monthly (weekly) payment requirements as an employer subject to the provisions of Section 701. For purposes of monthly and quarter monthly (weekly) payments, the total tax withheld under Sections 701 and 710 shall be considered in the aggregate.

(a-5) Every partnership, Subchapter S corporation, or trust required to withhold tax under Section 709.5 shall report the amounts withheld and the partners, shareholders, or beneficiaries from whom the amounts were withheld, and pay over the amount withheld, no later than the due date (without regard to extensions) of the tax return of the partnership, Subchapter S corporation, or trust for the taxable year.

(b) Information statement. Every payor required to deduct and withhold tax under Section 710 shall furnish in duplicate to each party entitled to the credit for such withholding under subsection (b) of Section 709.5, and subsection (b) of Section 710, respectively, on or before January 31 of the succeeding calendar year for amounts withheld under Section 710 or the due date (without regard to extensions) of the return of the partnership, Subchapter S corporation, or trust for the taxable year for amounts withheld under Section 709.5 for the taxable year, a written statement in such form as the Department may by regulation prescribe showing the amount of the payments, the amount deducted and withheld as tax, and such other information as the Department may prescribe. A copy of such statement shall be filed by the party entitled to the credit for the withholding under subsection (b) of Section 709.5, or subsection (b) of Section 710 with his return for the taxable year to which it relates. (Source: P.A. 85-299; 85-982.)

Sec. 712. Payor's Liability For Withheld Taxes.

Every payor who deducts and withholds or is required to deduct and withhold tax under Sections 709.5 or 710 is liable for such tax. For purposes of assessment and collection, any amount withheld or required to be withheld and paid over to the Department, and any penalties and interest with respect thereto, shall be considered the tax of the payor. Any amount of tax actually deducted and withheld under Sections 709.5 or 710 shall be

held to be a special fund in trust for the Department. No payee shall have any right of action against his payor in respect of any money deducted and withheld and paid over to the Department in compliance or in intended compliance with Sections 709.5 or 710 (and until January 1, 1989, Sections 708 and 709). (Source: P.A. 85-299; 85-982.)

Sec. 713. Payor's Failure To Withhold.

If a payor fails to deduct and withhold any amount of tax as required under Sections 709.5 or 710 and thereafter the tax on account of which such amount was required to be deducted and withheld is paid, such amount of tax shall not be collected from the payor, but the payor shall not be relieved from liability for penalties or interest otherwise applicable in respect of such failure to deduct and withhold. For purposes of this Section, the tax on account of which an amount is required to be deducted and withheld is the tax of the individual or individuals who are entitled to a credit under subsection (b) of Section 709.5 or subsection (b) of Section 710 for the withheld tax. (Source: P.A. 85-299; 85-982.)

ARTICLE 8. DECLARATION AND PAYMENT OF ESTIMATED TAX.

Sec. 803. Payment Of Estimated Tax.

(a) Every taxpayer other than an estate, trust, partnership, Subchapter S corporation or farmer is required to pay estimated tax for the taxable year, in such amount and with such forms as the Department shall prescribe, if the amount payable as estimated tax can reasonably be expected to be more than (i) $250 for taxable years ending before December 31, 2001 and $500 for taxable years ending on or after December 31, 2001 or (ii) $400 for corporations.

(b) Estimated tax defined. The term "estimated tax" means the excess of:

(1) The amount which the taxpayer estimates to be his tax under this Act for the taxable year, over

(2) The amount which he estimates to be the sum of any amounts to be withheld on account of or credited against such tax.

(c) Joint payment. If they are eligible to do so for federal tax purposes, a husband and wife may pay estimated tax as if they were one taxpayer, in which case the liability with respect to the estimated tax shall be joint and several. If a joint payment is made but the husband and wife elect to determine their taxes under this Act separately, the estimated tax for such year may be treated as the estimated tax of either husband or wife, or may be divided between them, as they may elect.

(d) There shall be paid 4 equal installments of estimated tax for each taxable year, payable as follows:

Required Installment:	Due Date:
1st	April 15
2nd	June 15
3rd	September 15
4th	Individuals: January 15 of the following taxable year Corporations: December 15

(e) Farmers. An individual, having gross income from farming for the taxable year which is at least 2/3 of his total estimated gross income for such year.

(f) Application to short taxable years. The application of this section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Department.

(g) Fiscal years. In the application of this section to the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in subsections (d) and (e), the months which correspond thereto.

(h) Installments paid in advance. Any installment of estimated tax may be paid before the date prescribed for its payment.

The changes in this Section made by this amendatory Act of 1985 shall apply to taxable years ending on or after January 1, 1986. (Source: P.A. 86-678.)

Sec. 804. Failure To Pay Estimated Tax.

(a) In general. In case of any underpayment of estimated tax by a taxpayer, except as provided in subsection (d) or (e), the taxpayer shall be liable to a penalty in an amount determined at the rate prescribed by Section 3-3 of the Uniform Penalty and Interest Act upon the amount of the underpayment (determined under subsection (b)) for each required installment.

(b) Amount of underpayment. For purposes of subsection (a), the amount of the underpayment shall be the excess of:

(1) the amount of the installment which would be required to be paid under subsection (c), over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

(c) Amount of Required Installments.

(1) Amount.

(A) In General. Except as provided in paragraphs (2) and (3), the amount of any required installment shall be 25% of the required annual payment.

(B) Required Annual Payment. For purposes of subparagraph (A), the term "required annual payment" means the lesser of:

(i) 90% of the tax shown on the return for the taxable year, or if no return is filed, 90% of the tax for such year;

(ii) for installments due prior to February 1, 2011, and after January 31, 2012, 100% of the tax shown on the return of the taxpayer for the preceding taxable year if a return showing a liability for tax was filed by the taxpayer for the preceding taxable year and such preceding year was a taxable year of 12 months; or

(iii) for installments due after January 31, 2011, and prior to February 1, 2012, 150% of the tax shown on the return of the taxpayer for the preceding taxable year if a return showing a liability for tax was filed by the taxpayer for the preceding taxable year and such preceding year was a taxable year of 12 months.

(2) Lower Required Installment where Annualized Income Installment is Less Than Amount Determined Under Paragraph (1).

(A) In General. In the case of any required installment if a taxpayer establishes that the annualized income installment is less than the amount determined under paragraph (1),

(i) the amount of such required installment shall be the annualized income installment, and

(ii) any reduction in a required installment resulting from the application of this subparagraph shall be recaptured by increasing the amount of the next required installment determined under paragraph (1) by the amount of such reduction, and by increasing subsequent required installments to the extent that the reduction has not previously been recaptured under this clause.

(B) Determination of Annualized Income Installment. In the case of any required installment, the annualized income installment is the excess, if any, of

(i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the net income for months in the taxable year ending before the due date for the installment, over

(ii) the aggregate amount of any prior required installments for the taxable year.

(C) Applicable Percentage.

In the case of the following required installments:	The applicable percentage is:
1st	22.5%
2nd	45%
3rd	67.5%
4th	90%

(D) Annualized Net Income; Individuals. For individuals, net income shall be placed on an annualized basis by:

(i) multiplying by 12, or in the case of a taxable year of less than 12 months, by the number of months in the taxable year, the net income computed without regard to the standard exemption for the months in the taxable year ending before the month in which the installment is required to be paid;

(ii) dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls; and

(iii) deducting from such amount the standard exemption allowable for the taxable year, such standard exemption being determined as of the last date prescribed for payment of the installment.

(E) Annualized Net Income; Corporations. For corporations, net income shall be placed on an annualized basis by multiplying by 12 the taxable income

(i) for the first 3 months of the taxable year, in the case of the installment required to be paid in the 4th month,

(ii) for the first 3 months or for the first 5 months of the taxable year, in the case of the installment required to be paid in the 6th month,

(iii) for the first 6 months or for the first 8 months of the taxable year, in the case of the installment required to be paid in the 9th month, and

(iv) for the first 9 months or for the first 11 months of the taxable year, in the case of the installment required to be paid in the 12th month of the taxable year,

then dividing the resulting amount by the number of months in the taxable year (3, 5, 6, 8, 9, or 11 as the case may be).

(3) Notwithstanding any other provision of this subsection (c), in the case of a federally regulated exchange that elects to apportion its income under Section 304(c-1) of this Act, the amount of each required installment due prior to June 30 of the first taxable year to which the election applies shall be 25% of the tax that would have been shown on the return for that taxable year if the taxpayer had not made such election.

(d) Exceptions. Notwithstanding the provisions of the preceding subsections, the penalty imposed by subsection (a) shall not be imposed if the taxpayer was not required to file an Illinois income tax return for the preceding taxable year, or, for individuals, if the taxpayer had no tax liability for the preceding taxable year and such year was a taxable year of 12 months. The penalty imposed by subsection (a) shall also not be imposed on any underpayments of estimated tax due before the effective date of this amendatory Act of 1998 which underpayments are solely attributable to the change in apportionment from subsection (a) to subsection (h) of Section 304. The provisions of this amendatory Act of 1998 apply to tax years ending on or after December 31, 1998.

(e) The penalty imposed for underpayment of estimated tax by subsection (a) of this Section shall not be imposed to the extent that the Director or his or her designate determines, pursuant to Section 3-8 of the Uniform Penalty and Interest Act that the penalty should not be imposed.

(f) Definition of tax. For purposes of subsections (b) and (c), the term "tax" means the excess of the tax imposed under Article 2 of this Act, over the amounts credited against such tax under Sections 601(b) (3) and (4).

(g) Application of Section in case of tax withheld under Article 7. For purposes of applying this Section:

(1) tax withheld from compensation for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld;

(2) amounts timely paid by a partnership, Subchapter S corporation, or trust on behalf of a partner, shareholder, or beneficiary pursuant to subsection (f) of Section 502 or Section 709.5 and claimed as a payment of estimated tax shall be deemed a payment of estimated tax made on the last day of the taxable year of the partnership, Subchapter S corporation, or trust for which the income from the withholding is made was computed; and

(3) all other amounts pursuant to Article 7 shall be deemed a payment of estimated tax on the date the payment is made to the taxpayer of the amount from which the tax is withheld.

(g-5) Amounts withheld under the State Salary and Annuity Withholding Act. An individual who has amounts withheld under paragraph (10) of Section 4 of the State Salary and Annuity Withholding Act may elect to have those amounts treated as payments of estimated tax made on the dates on which those amounts are actually withheld.

(i) Short taxable year. The application of this Section to taxable years of less than 12 months shall be in accordance with regulations prescribed by the Department. The changes in this Section made by Public Act 84-127 shall apply to taxable years ending on or after January 1, 1986. (Source: P.A. 90-448, eff. 8-16-97; 90-613, eff. 7-9-98.)

Sec. 806. Exemption from penalty.

An individual taxpayer shall not be subject to a penalty for failing to pay estimated tax as required by Section 803 if the taxpayer is 65 years of age or older and is a permanent resident of a nursing home. For purposes of this Section, "nursing home" means a skilled nursing or intermediate long term care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the ID/DD Community Care Act.

Sec. 807. EDGE payment.

A payment includes a payment provided for in subsection (g) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act.

ARTICLE 9. PROCEDURE AND ADMINISTRATION.

Sec. 901. Collection Authority.

(a) In general.

The Department shall collect the taxes imposed by this Act. The Department shall collect certified past due child support amounts under Section 2505-650 of the Department of Revenue Law (20 ILCS 2505/2505-650). Except as provided in subsections (c), (e), (f), (g), and h of this Section, money collected pursuant to subsections (a) and (b) of Section 201 of this Act shall be paid into the General Revenue Fund in the State treasury; money collected pursuant to subsections (c) and (d) of Section 201 of this Act shall be paid into the Personal Property Tax Replacement Fund, a special fund in the State Treasury; and money collected under Section 2505-650 of the Department of Revenue Law (20 ILCS 2505/2505-650) shall be paid into the Child Support Enforcement Trust Fund, a special fund outside the State Treasury, or to the State Disbursement Unit established under Section 10-26 of the Illinois Public Aid Code, as directed by the Department of Healthcare and Family Services.

(b) Local Government Distributive Fund. Beginning August 1, 1969, and continuing through June 30, 1994, the Treasurer shall transfer each month from the General Revenue Fund to a special fund in the State treasury, to be known as the "Local Government Distributive Fund", an amount equal to 1/12 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act during the preceding month. Beginning July 1, 1994, and continuing through June 30, 1995, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to 1/11 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act during the preceding month. Beginning July 1, 1995 and continuing through January 31, 2011, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to the net of (i) 1/10 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act during the preceding month (ii) minus, beginning July 1, 2003 and ending June 30, 2004, $6,666,666, and beginning July 1, 2004, zero. Beginning February 1, 2011, and continuing through January 31, 2015, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to the sum of (i) 6% (10% of the ratio of the 3% individual income tax rate prior to 2011 to the 5% individual income tax rate after 2010) of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act upon individuals, trusts, and estates during the preceding month and (ii) 6.86% (10% of the ratio of the 4.8% corporate income tax rate prior to 2011 to the 7% corporate income tax rate after 2010) of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act upon corporations during the preceding month. Beginning February 1, 2015 and continuing through January 31, 2025, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to the sum of (i) 8% (10% of the ratio of the 3% individual income tax rate prior to 2011 to the 3.75% individual income tax rate after 2014) of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act upon individuals, trusts, and estates during the preceding month and (ii) 9.14% (10% of the ratio of the 4.8% corporate income tax rate prior to 2011 to the 5.25% corporate income tax rate after 2014) of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act upon corporations during the preceding month. Beginning February 1, 2025, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to the sum of (i) 9.23% (10% of the ratio of the 3% individual income tax rate prior to 2011 to the 3.25% individual income tax rate after 2024) of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act upon individuals, trusts, and estates during the preceding month and (ii) 10% of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act upon corporations during the preceding month. Net revenue realized for a month shall be defined as the revenue from the tax imposed by subsections (a) and (b) of Section 201 of this Act which is deposited in the General Revenue Fund, the Education Assistance Fund, the Income Tax Surcharge Local Government Distributive Fund, the Fund for the Advancement of Education, and the Commitment to Human Services Fund during the month minus the amount paid out of the General Revenue Fund in State warrants during that same month as refunds to taxpayers for overpayment of liability under the tax imposed by subsections (a) and (b) of Section 201 of this Act.

Beginning on the effective date of this amendatory Act of the 98th General Assembly, the Comptroller shall perform the transfers required by this subsection (b) no later than 60 days after he or she receives the certification from the Treasurer as provided in Section 1 of the State Revenue Sharing Act.

(c) Deposits Into Income Tax Refund Fund.

(1) Beginning on January 1, 1989 and thereafter, the Department shall deposit a percentage of the amounts collected pursuant to subsections (a) and (b)(1), (2), and (3), of Section 201 of this Act into a fund in the State treasury known as the Income Tax Refund Fund. The Department shall deposit 6% of such amounts during the period beginning January 1, 1989 and ending on June 30, 1989. Beginning with State fiscal year 1990 and for each fiscal year thereafter, the percentage deposited into the Income Tax Refund Fund during a fiscal year shall be the Annual Percentage. For fiscal years 1999 through 2001, the Annual Percentage shall be 7.1%. For fiscal year 2003, the Annual Percentage shall be 8%. For fiscal year 2004, the Annual Percentage shall be 11.7%. Upon the effective date of this amendatory Act of the 93rd General Assembly, the Annual Percentage shall be 10% for fiscal year 2005. For fiscal year 2006, the Annual Percentage shall be 9.75%. For fiscal year 2007, the Annual Percentage shall be 9.75%. For fiscal year 2008, the Annual Percentage shall be 7.75%. For fiscal year 2009, the Annual Percentage shall be 9.75%. For fiscal year 2010, the Annual Percentage shall be 9.75%. For fiscal year 2011, the Annual Percentage shall be 8.75%. For fiscal year 2012, the Annual Percentage shall be 8.75%. For fiscal year 2013, the Annual Percentage shall be 9.75%. For fiscal year 2014, the Annual Percentage shall be 9.5%. For fiscal year 2015, the Annual Percentage shall be 10%. For all other fiscal years, the Annual Percentage shall be calculated as a fraction, the numerator of which shall be the amount of refunds approved for payment by the Department during the preceding fiscal year as a result of overpayment of tax liability under subsections (a) and (b)(1), (2), and (3) of Section 201 of this Act plus the amount of such refunds remaining approved but unpaid at the end of the preceding fiscal year, minus the amounts transferred into the Income Tax Refund Fund from the Tobacco Settlement Recovery Fund, and the denominator of which shall be the amounts which will be collected pursuant to subsections (a) and (b)(1), (2), and (3) of Section 201 of this Act during the preceding fiscal year; except that in State fiscal year 2002, the Annual Percentage shall in no event exceed 7.6%. The Director of Revenue shall certify the Annual Percentage to the Comptroller on the last business day of the fiscal year immediately preceding the fiscal year for which it is to be effective.

(2) Beginning on January 1, 1989 and thereafter, the Department shall deposit a percentage of the amounts collected pursuant to subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act into a fund in the State treasury known as the Income Tax Refund Fund. The Department shall deposit 18% of such amounts during the period beginning January 1, 1989 and ending on June 30, 1989. Beginning with State fiscal year 1990 and for each fiscal year thereafter, the percentage deposited into the Income Tax Refund Fund during a fiscal year shall be the Annual Percentage. For fiscal years 1999, 2000, and 2001, the Annual Percentage shall be 19%. For fiscal year 2003, the Annual Percentage shall be 27%. For fiscal year 2004, the Annual Percentage shall be 32%. Upon the effective date of this amendatory Act of the 93rd General Assembly, the Annual Percentage shall be 24% for fiscal year 2005. For fiscal year 2006, the Annual Percentage shall be 20%. For fiscal year 2007, the Annual Percentage shall be 17.5%. For fiscal year 2008, the Annual Percentage shall be 15.5%. For fiscal year 2009, the Annual Percentage shall be 17.5%. For fiscal year 2010, the Annual Percentage shall be 17.5%. For fiscal year 2011, the Annual Percentage shall be 17.5%. For fiscal year 2012, the Annual Percentage shall be 17.5%. For fiscal year 2013, the Annual Percentage shall be 14%. For fiscal year 2014, the Annual Percentage shall be 13.4%. For fiscal year 2015, the Annual Percentage shall be 14%. For all other fiscal years, the Annual Percentage shall be calculated as a fraction, the numerator of which shall be the amount of refunds approved for payment by the Department during the preceding fiscal year as a result of overpayment of tax liability under subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act plus the amount of such refunds remaining approved but unpaid at the end of the preceding fiscal year, and the denominator of which shall be the amounts which will be collected pursuant to subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act during the preceding fiscal year; except that in State fiscal year 2002, the Annual Percentage shall in no event exceed 23%. The Director of Revenue shall certify the Annual Percentage to the Comptroller on the

last business day of the fiscal year immediately preceding the fiscal year for which it is to be effective.

(3) The Comptroller shall order transferred and the Treasurer shall transfer from the Tobacco Settlement Recovery Fund to the Income Tax Refund Fund (i) $35,000,000 in January, 2001, (ii) $35,000,000 in January, 2002, and (iii) $35,000,000 in January, 2003.

(d) Expenditures from Income Tax Refund Fund.

(1) Beginning January 1, 1989, money in the Income Tax Refund Fund shall be expended exclusively for the purpose of paying refunds resulting from overpayment of tax liability under Section 201 of this Act, for paying rebates under Section 208.1 in the event that the amounts in the Homeowners' Tax Relief Fund are insufficient for that purpose, and for making transfers pursuant to this subsection (d).

(2) The Director shall order payment of refunds resulting from overpayment of tax liability under Section 201 of this Act from the Income Tax Refund Fund only to the extent that amounts collected pursuant to Section 201 of this Act and transfers pursuant to this subsection (d) and item (3) of subsection (c) have been deposited and retained in the Fund.

(3) As soon as possible after the end of each fiscal year, the Director shall order transferred and the State Treasurer and State Comptroller shall transfer from the Income Tax Refund Fund to the Personal Property Tax Replacement Fund an amount, certified by the Director to the Comptroller, equal to the excess of the amount collected pursuant to subsections (c) and (d) of Section 201 of this Act deposited into the Income Tax Refund Fund during the fiscal year over the amount of refunds resulting from overpayment of tax liability under subsections (c) and (d) of Section 201 of this Act paid from the Income Tax Refund Fund during the fiscal year.

(4) As soon as possible after the end of each fiscal year, the Director shall order transferred and the State Treasurer and State Comptroller shall transfer from the Personal Property Tax Replacement Fund to the Income Tax Refund Fund an amount, certified by the Director to the Comptroller, equal to the excess of the amount of refunds resulting from overpayment of tax liability under subsections (c) and (d) of Section 201 of this Act paid from the Income Tax Refund Fund during the fiscal year over the amount collected pursuant to subsections (c) and (d) of Section 201 of this Act deposited into the Income Tax Refund Fund during the fiscal year.

(4.5) As soon as possible after the end of fiscal year 1999 and of each fiscal year thereafter, the Director shall order transferred and the State Treasurer and State Comptroller shall transfer from the Income Tax Refund Fund to the General Revenue Fund any surplus remaining in the Income Tax Refund Fund as of the end of such fiscal year; excluding for fiscal years 2000, 2001, and 2002 amounts attributable to transfers under item (3) of subsection (c) less refunds resulting from the earned income tax credit.

(5) This Act shall constitute an irrevocable and continuing appropriation from the Income Tax Refund Fund for the purpose of paying refunds upon the order of the Director in accordance with the provisions of this Section.

(e) Deposits into the Education Assistance Fund and the Income Tax Surcharge Local Government Distributive Fund.

On July 1, 1991, and thereafter, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of this Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 7.3% into the Education Assistance Fund in the State Treasury. Beginning July 1, 1991, and continuing through January 31, 1993, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 3.0% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury. Beginning February 1, 1993 and continuing through June 30, 1993, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 4.4% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury. Beginning July 1, 1993, and continuing through June 30, 1994, of the amounts collected under subsections (a) and (b) of Section 201 of this Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 1.475% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury.

(f) Deposits into the Fund for the Advancement of Education. Beginning February 1, 2015, the Department shall deposit the following portions of the revenue realized from the tax

imposed upon individuals, trusts, and estates by subsections (a) and (b) of Section 201 of this Act during the preceding month, minus deposits into the Income Tax Refund Fund, into the Fund for the Advancement of Education:

(1) beginning February 1, 2015, and prior to February 1, 2025, 1/30; and

(2) beginning February 1, 2025, 1/26.

If the rate of tax imposed by subsection (a) and (b) of Section 201 is reduced pursuant to Section 201.5 of this Act, the Department shall not make the deposits required by this subsection (f) on or after the effective date of the reduction.

(g) Deposits into the Commitment to Human Services Fund. Beginning February 1, 2015, the Department shall deposit the following portions of the revenue realized from the tax imposed upon individuals, trusts, and estates by subsections (a) and (b) of Section 201 of this Act during the preceding month, minus deposits into the Income Tax Refund Fund, into the Commitment to Human Services Fund:

(1) beginning February 1, 2015, and prior to February 1, 2025, 1/30; and

(2) beginning February 1, 2025, 1/26.

If the rate of tax imposed by subsection (a) and (b) of Section 201 is reduced pursuant to Section 201.5 of this Act, the Department shall not make the deposits required by this subsection (g) on or after the effective date of the reduction. (Source: P.A. 94-91, eff. 7-1-05; 94-839, eff. 6-6-06; 95-707, eff. 1-11-08; 95-744, eff. 7-18-08; revised 10-23-08.)

(h) Deposits into the Tax Compliance and Administration Fund. Beginning on the first day of the first calendar month to occur on or after the effective date of this amendatory Act of the 98th General Assembly, each month the Department shall pay into the Tax Compliance and Administration Fund, to be used, subject to appropriation, to fund additional auditors and compliance personnel at the Department, an amount equal to 1/12 of 5% of the cash receipts collected during the preceding fiscal year by the Audit Bureau of the Department from the tax imposed by subsections (a), (b), (c), and (d) of Section 201 of this Act, net of deposits into the Income Tax Refund Fund made from those cash receipts.

Sec. 902. Notice And Demand.

(a) In general. Except as provided in subsection (b) the Director shall, as soon as practicable after an amount payable under this Act is deemed assessed (as provided in Section 903), give notice to each person liable for any unpaid portion of such assessment, stating the amount unpaid and demanding payment thereof. In the case of tax deemed assessed with the filing of a return, the Director shall give notice no later than 3 years after the date the return was filed. Upon receipt of any notice and demand there shall be paid at the place and time stated in such notice the amount stated in such notice. Such notice shall be left at the dwelling or usual place of business of such person or shall be sent by mail to the person's last known address.

(b) Judicial review. In the case of a deficiency deemed assessed under Section 903 (a) (2) after the filing of a protest, notice and demand shall not be made with respect to such assessment until all proceedings in court for the review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted.

(c) Action for recovery of taxes. At any time that the Department might commence proceedings for a levy under Section 1109, regardless of whether a notice of lien was filed under the provisions of Section 1103, it may bring an action in any court of competent jurisdiction within or without this State in the name of the people of this State to recover the amount of any taxes, penalties and interest due and unpaid under this Act. In such action, the certificate of the Department showing the amount of the delinquency shall be prima facie evidence of the correctness of such amount, its assessment and of the compliance by the Department with all the provisions of this Act.

(d) Sales or transfers outside the usual course of business-Report-Payment of Tax - Rights and duties of purchaser or transferee - penalty. If any taxpayer, outside the usual course of his business, sells or transfers the major part of any one or more of (A) the stock of goods which he is engaged in the business of selling, or (B) the furniture or fixtures, or (C) the machinery and equipment, or (D) the real property, of any business that is subject to the provisions of this Act, the purchaser or transferee of such assets shall, no later than 10 business days after the sale or transfer, file a notice of sale or transfer of business assets with the Chicago office of the

Department disclosing the name and address of the seller or transferor, the name and address of the purchaser or transferee, the date of the sale or transfer, a copy of the sales contract and financing agreements which shall include a description of the property sold or transferred, the amount of the purchase price or a statement of other consideration for the sale or transfer, and the terms for payment of the purchase price, and such other information as the Department may reasonably require. If the purchaser or transferee fails to file the above described notice of sale with the Department within the prescribed time, the purchaser or transferee shall be personally liable to the Department for the amount owed hereunder by the seller or transferor but unpaid, up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The purchaser or transferee shall pay the Department the amount of tax, penalties, and interest owed by the seller or transferor under this Act, to the extent they have not been paid by the seller or transferor. The seller or transferor, or the purchaser or transferee, at least 10 business days before the date of the sale or transfer, may notify the Department of the intended sale or transfer and request the Department to make a determination as to whether the seller or transferor owes any tax, penalty or interest due under this Act. The Department shall take such steps as may be appropriate to comply with such request.

Any order issued by the Department pursuant to this Section to withhold from the purchase price shall be issued within 10 business days after the Department receives notification of a sale as provided in this Section. The purchaser or transferee shall withhold such portion of the purchase price as may be directed by the Department, but not to exceed a minimum amount varying by type of business, as determined by the Department pursuant to regulations, plus twice the outstanding unpaid liabilities and twice the average liability of preceding filings times the number of unfiled returns which were not filed when due, to cover the amount of all tax, penalty, and interest due and unpaid by the seller or transferor under this Act or, if the payment of money or property is not involved, shall withhold the performance of the condition that constitutes the consideration for the sale or transfer. Within 60 business days after issuance of the initial order to withhold, the Department shall provide written notice to the purchaser or transferee of the actual amount of all taxes, penalties and interest then due and whether or not additional amounts may become due as a result of unpaid taxes required to be withheld by an employer, returns which were not filed when due, pending assessments and audits not completed. The purchaser or transferee shall continue to withhold the amount directed to be withheld by the initial order or such lesser amount as is specified by the final withholding order or to withhold the performance of the condition which constitutes the consideration for the sale or transfer until the purchaser or transferee receives from the Department a certificate showing that no unpaid tax, penalty or interest is due from the seller or transferor under this Act.

The purchaser or transferee is relieved of any duty to continue to withhold from the purchase price and of any liability for tax, penalty, or interest due hereunder from the seller or transferor if the Department fails to notify the purchaser or transferee in the manner provided herein of the amount to be withheld within 10 business days after the sale or transfer has been reported to the Department or within 60 business days after issuance of the initial order to withhold, as the case may be. The Department shall have the right to determine amounts claimed on an estimated basis to allow for periods for which returns were not filed when due, pending assessments and audits not completed, however the purchaser or transferee shall be personally liable only for the actual amount due when determined.

If the seller or transferor has failed to pay the tax, penalty, and interest due from him hereunder and the Department makes timely claim therefor against the purchaser or transferee as hereinabove provided, then the purchaser or transferee shall pay to the Department the amount so withheld from the purchase price. If the purchaser or transferee fails to comply with the requirements of this Section, the purchaser or transferee shall be personally liable to the Department for the amount owed hereunder by the seller or transferor up to the amount of the reasonable value of the property acquired by the purchaser or transferee.

Any person who shall acquire any property or rights thereto which, at the time of such acquisition, is subject to a valid lien in favor of the Department, shall be personally liable to the Department for a sum equal to the amount of taxes, penalties and interests, secured by such lien, but not to exceed the reasonable value of such property acquired by him. (Source: P.A. 86-923; 86-953.)

Sec. 903. Assessment.

(a) In general. (1) Returns. The amount of tax which is shown to be due on the return shall be deemed assessed on the date of filing of the return (including any amended returns showing an increase of tax). In the event that the amount of tax is understated on the taxpayer's return due to a mathematical error, the Department shall notify the taxpayer that the amount of tax in excess of that shown on the return is due and has been assessed. Such notice of additional tax due shall be issued no later than 3 years after the date the return was filed. Such notice of additional tax due shall not be considered a notice of deficiency nor shall the taxpayer have any right of protest. In the case of a return properly filed without the computation of the tax, the tax computed by the Department shall be deemed to be assessed on the date when payment is due.

(2) Notice of deficiency. If a notice of deficiency has been issued, the amount of the deficiency shall be deemed assessed on the date provided in section 904(d) if no protest is filed; or, if a protest is filed, then upon the date when the decision of the Department becomes final.

(3) Federal change. If an amended return or report is filed with the Department pursuant to section 506(b), any deficiency in tax under this Act resulting therefrom shall be deemed to be assessed on the date of filing such report or amended return and such assessment shall be timely notwithstanding any other provisions of this Act.

(4) Payments. Any amount paid as tax or in respect of tax paid under this Act, other than amounts withheld or paid as estimated tax under Articles 7 or 8, shall be deemed assessed upon the date of receipt of payment, notwithstanding any other provisions of this Act.

(b) Limitations on assessment. No deficiency shall be assessed with respect to a taxable year for which a return was filed unless a notice of deficiency for such year was issued not later than the date prescribed in section 905. (Source: P.A. 84-127.)

Sec. 904. Deficiencies And Overpayments.

(a) Examination of return. As soon as practicable after a return is filed, the Department shall examine it to determine the correct amount of tax. If the Department finds that the amount of tax shown on the return is less than the correct amount, it shall issue a notice of deficiency to the taxpayer which shall set forth the amount of tax and penalties proposed to be assessed. If the Department finds that the tax paid is more than the correct amount, it shall credit or refund the overpayment as provided by Section 909. The findings of the Department under this subsection shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax and penalties due.

(b) No return filed. If the taxpayer fails to file a tax return, the Department shall determine the amount of tax due according to its best judgment and information, which amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due. The Department shall issue a notice of deficiency to the taxpayer which shall set forth the amount of tax and penalties proposed to be assessed.

(c) Notice of deficiency. A notice of deficiency issued under this Act shall set forth the adjustments giving rise to the proposed assessment and the reasons therefor. In the case of a joint return, the notice of deficiency may be a single joint notice except that if the Department is notified by either spouse that separate residences have been established, it shall issue joint notices to each spouse.

(d) Assessment when no protest. Upon the expiration of 60 days after the date on which it was issued (150 days if the taxpayer is outside the United States), a notice of deficiency shall constitute an assessment of the amount of tax and penalties specified therein, except only for such amounts as to which the taxpayer shall have filed a protest with the Department, as provided in Section 908. (Source: P.A. 87-192; 87-205.)

Sec. 905. Limitations on Notices of Deficiency.

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

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

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

(b) Substantial omission of items.

(1) Omission of more than 25% of income. If the taxpayer omits from base income an

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

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

(3) Withholding. If an employer omits from a return required under Section 704A of this Act for any period beginning on or after January 1, 2013, an amount required to be withheld and to be reported on that return which is in excess of 25% of the total amount of withholding required to be reported on that return, a notice of deficiency may be issued not later than 6 years after the return was filed.

(c) No return or fraudulent return. If no return is filed or a false and fraudulent return is filed with intent to evade the tax imposed by this Act, a notice of deficiency may be issued at any time. For purposes of this subsection (c), any taxpayer who is required to join in the filing of a return filed under the provisions of subsection (e) of Section 502 of this Act for a taxable year ending on or after December 31, 2013 and who is not included on that return and does not file its own return for that taxable year shall be deemed to have failed to file a return; provided that the amount of any proposed assessment set forth in a notice of deficiency issued under this subsection (c) shall be limited to the amount of any increase in liability under this Act that should have reported on the return required under the provisions of subsection (e) of Section 502 of this Act for that taxable year resulting from proper inclusion of that taxpayer on that return.

(d) Failure to report federal change. If a taxpayer fails to notify the Department in any case where notification is required by Section 304(c) or 506(b), or fails to report a change or correction which is treated in the same manner as if it were a deficiency for federal income tax purposes, a notice of deficiency may be issued (i) at any time or (ii) on or after August 13, 1999, at any time for the taxable year for which the notification is required or for any taxable year to which the taxpayer may carry an Article 2 credit, or a Section 207 loss, earned, incurred, or used in the year for which the notification is required; provided, however, that the amount of any proposed assessment set forth in the notice shall be limited to the amount of any deficiency resulting under this Act from the recomputation of the taxpayer's net income, Article 2 credits, or Section 207 loss earned, incurred, or used in the taxable year for which the notification is required after giving effect to the item or items required to be reported.

(e) Report of federal change.

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

(2) On and after August 13, 1999 , in any case where notification of an alteration is given as required by Section 506(b), a notice of deficiency may be issued at any time within 2 years after the date such notification is given for the taxable year for which the notification is given or for any taxable year to which the taxpayer may carry an Article 2 credit, or a Section 207 loss, earned, incurred, or used in the year for which the notification is given, provided, however, that the amount of any proposed assessment set forth in such notice shall be limited to the amount of any deficiency resulting under this Act from recomputation of the taxpayer's net income, Article 2 credits, or Section 207 loss earned, incurred, or used in the taxable year for which the notification is given after giving effect to the item or items reflected in the reported alteration.

(f) Extension by agreement. Where, before the expiration of the time prescribed in this section for the issuance of a notice of deficiency, both the Department and the taxpayer shall have consented in writing to its issuance after such time, such notice may be issued at any time prior to the expiration of the period agreed upon. In the case of

a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection on or after January 1, 2003, a notice of deficiency may be issued to the partners, shareholders, or beneficiaries of the taxpayer at any time prior to the expiration of the period agreed upon. Any proposed assessment set forth in the notice, however, shall be limited to the amount of any deficiency resulting under this Act from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under this Act. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

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

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

(h) Time return deemed filed. For purposes of this Section a tax return filed before the last day prescribed by law (including any extension thereof) shall be deemed to have been filed on such last day.

(i) Request for prompt determination of liability. For purposes of Subsection (a)(1), in the case of a tax return required under this Act in respect of a decedent, or by his estate during the period of administration, or by a corporation, the period referred to in such Subsection shall be 18 months after a written request for prompt determination of liability is filed with the Department (at such time and in such form and manner as the Department shall by regulations prescribe) by the executor, administrator, or other fiduciary representing the estate of such decedent, or by such corporation, but not more than 3 years after the date the return was filed. This Subsection shall not apply in the case of a corporation unless:

(1)(A) Such written request notifies the Department that the corporation contemplates dissolution at or before the expiration of such 18-month period, (B) the dissolution is begun in good faith before the expiration of such 18-month period, and (C) the dissolution is completed;

(2)(A) Such written request notifies the Department that a dissolution has in good faith been begun, and (B) the dissolution is completed; or

(3) A dissolution has been completed at the time such written request is made.

(j) Withholding tax. In the case of returns required under Article 7 of this Act (with respect to any amounts withheld as tax or any amounts required to have been withheld as tax) a notice of deficiency shall be issued not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which such withholding was required.

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

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

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

(1) Initial Transferee. In the case of the liability of an initial transferee, up to 2 years after the expiration of the period of limitation for assessment against the transferor, except that if a court proceeding for review of the assessment

against the transferor has begun, then up to 2 years after the return of the certified copy of the judgment in the court proceeding.

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

(n) Notice of decrease in net loss. On and after August 23, 2002, no notice of deficiency shall be issued as the result of a decrease determined by the Department in the net loss incurred by a taxpayer in any taxable year ending prior to December 31, 2002 under Section 207 of this Act unless the Department has notified the taxpayer of the proposed decrease within 3 years after the return reporting the loss was filed or within one year after an amended return reporting an increase in the loss was filed, provided that in the case of an amended return, a decrease proposed by the Department more than 3 years after the original return was filed may not exceed the increase claimed by the taxpayer on the original return. (Source: P.A. 92-846, eff. 8-23-02; 93-840, eff. 7-30-04.)

Sec. 906. Further Notices Of Deficiency Restricted.

If a protest has been filed with respect to a notice of deficiency issued by the Department with respect to a taxable year, and the decision of the Department on such protest has become final, the Department shall be barred from issuing a further or additional notice of deficiency for such taxable year, except in the case of fraud, mathematical error, a return that is not considered processable, as the term is defined in Section 3-2 of the Uniform Penalty and Interest Act, or as provided in section 905(d), (e), or (g). (Source: P.A. 89-399, eff. 8-20-95.)

Sec. 907. Waiver Of Restrictions On Assessment.

The taxpayer at any time, whether or not a notice of deficiency has been issued, shall have the right to waive the restrictions on assessment and collection of the whole or any part of any proposed assessment under this Act by a signed notice in writing filed with the Department in such form as the Department may by forms or regulations prescribe. (Source: P.A. 76-261.)

Sec. 908. Procedure On Protest.

(a) Time for protest. Within 60 days (150 days if the taxpayer is outside the United States) after the issuance of a notice of deficiency, the taxpayer may file (i) a protest against the proposed assessment with the Department or (ii) a petition with the Illinois Independent Tax Tribunal, as provided in this subsection (a). Prior to July 1, 2013, a written protest against the proposed assessment shall be filed with the Department in such form as the Department may by regulations prescribe, setting forth the grounds on which such protest is based. If such a protest is filed, the Department shall reconsider the proposed assessment and, if the taxpayer has so requested, shall grant the taxpayer or his authorized representative a hearing.

On and after July 1, 2013, all protests of a notice of deficiency that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed by petition pursuant to the Illinois Independent Tax Tribunal Act of 2012.

With respect to protests filed with the Department prior to July 1, 2013 that are otherwise subject to the jurisdiction of the Illinois Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 at any time on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable.

(b) Notice of decision. With respect to protests filed with the Department that are not subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, as soon as practicable after such reconsideration and hearing, if any, the Department shall issue a notice of decision by mailing such notice by certified or registered mail. Such notice shall set forth briefly the Department's findings of fact and the basis of decision in each case decided in whole or in part adversely to the taxpayer.

(c) Request for rehearing. With respect to protests filed with the Department that are not subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, within 30 days after the mailing of a notice of decision, the taxpayer may file with a Department a written request for rehearing in such form as the Department may by regulations prescribe, setting forth the grounds on which rehearing is requested. In any such case, the Department shall, in its discretion, grant either a rehearing or Departmental review unless, within 10 days of receipt of such request, it shall issue a denial of such request by mailing such denial to the taxpayer by certified or registered mail. If rehearing or Departmental review is granted, as soon as practicable after such rehearing or Departmental review, the Department shall issue a notice of final decision as provided in subsection (b).

(d) Finality of decision. If the taxpayer fails to file a timely protest or petition under subsection (a) of this Section, then the Department's notice of deficiency shall become a final assessment at the end of the 60th day after the date of issuance of the notice of deficiency (or the 150th day if the taxpayer is outside the United States). If the taxpayer files a protest with the Department, and the taxpayer does not elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, then the action of the Department on the taxpayer's protest shall become final:

(1) 30 Days after issuance of a notice of decision as provided in subsection (b); or

(2) if a timely request for rehearing was made, upon the issuance of a denial of such request or the issuance of a notice of final decision as provided in subsection (c).

After the issuance of a final assessment, or a notice of deficiency which becomes final without the necessity of actually issuing a final assessment as provided in this Section, the Department, at any time before such assessment is reduced to judgment, may (subject to rules of the Department) grant a rehearing (or grant departmental review and hold an original hearing if no previous hearing in the matter has been held) upon the application of the person aggrieved. Pursuant to such hearing or rehearing, the Department shall issue a revised final assessment to such person or his legal representative for the amount found to be due as a result of such hearing or rehearing.

If the taxpayer files a petition with the Illinois Independent Tax Tribunal, or otherwise elects to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, then the Department's decision will become final as provided in that Act.

Sec. 909. Credits And Refunds.

(a) In general. In the case of any overpayment, the Department, within the applicable period of limitations for a claim for refund, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of the tax imposed by this Act, regardless of whether other collection remedies are closed to the Department on the part of the person who made the overpayment and shall refund any balance to such person or credit any balance to that person pursuant to an election under subsection (b) of this Section.

(b) Credits against estimated tax. The Department shall prescribe regulations providing for a taxpayer election on an original return, an amended return, or otherwise for the crediting against the estimated tax for any taxable year of the amount determined by the taxpayer or the Department to be an overpayment of the tax imposed by this Act for a preceding taxable year.

(c) Interest on overpayment. Interest shall be allowed and paid at the rate and in the manner prescribed in Section 3-2 of the Uniform Penalty and Interest Act upon any overpayment in respect of the tax imposed by this Act. For purposes of this subsection, no amount of tax, for any taxable year, shall be treated as having been paid before the date on which the tax return for such year was due under Section 505, without regard to any extension of the time for filing such return.

(d) Refund claim. Every claim for refund shall be filed with the Department in writing in such form as the Department may by regulations prescribe, and shall state the specific grounds upon which it is founded.

(e) Notice of denial. As soon as practicable after a claim for refund is filed, the Department shall examine it and either issue a notice of refund, abatement or credit to the claimant or issue a notice of denial. If the Department has failed to approve or deny the claim before the expiration of 6 months from the date the claim was filed, the claimant may nevertheless thereafter file with the Department a written protest in such form as the Department may by regulation prescribe, provided that, on or after July 1, 2013,

protests concerning matters that are subject to the jurisdiction of the Illinois Independent Tax Tribunal shall be filed with the Illinois Independent Tax Tribunal and not with the Department. If the protest is subject to the jurisdiction of the Department, the Department shall consider the claim and, if the taxpayer has so requested, shall grant the taxpayer or the taxpayer's authorized representative a hearing within 6 months after the date such request is filed.

On and after July 1, 2013, if the protest would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the claimant may elect to treat the Department's non-action as a denial of the claim by filing a petition to review the Department's administrative decision with the Illinois Independent Tax Tribunal, as provided by Section 910.

(f) Effect of denial. A denial of a claim for refund becomes final 60 days after the date of issuance of the notice of such denial except for such amounts denied as to which the claimant has filed a protest with the Department or a petition with the Illinois Independent Tax Tribunal, as provided by Section 910.

(g) An overpayment of tax shown on the face of an unsigned return shall be considered forfeited to the State if after notice and demand for signature by the Department the taxpayer fails to provide a signature and 3 years have passed from the date the return was filed. An overpayment of tax refunded to a taxpayer whose return was filed electronically shall be considered an erroneous refund under Section 912 of this Act if, after proper notice and demand by the Department, the taxpayer fails to provide a required signature document. A notice and demand for signature in the case of a return reflecting an overpayment may be made by first class mail. This subsection (g) shall apply to all returns filed pursuant to this Act since 1969.

(h) This amendatory Act of 1983 applies to returns and claims for refunds filed with the Department on and after July 1, 1983. (Source: P.A. 89-399, eff. 8-20-95.)

Sec. 910. Procedure On Denial Of Claim For Refund.

(a) Time for protest. Within 60 days after the denial of the claim, the claimant may file (i) a protest with the Department or (ii) a petition with the Illinois Independent Tax Tribunal, as provided in this subsection (a). A written protest against such denial shall be filed with the Department in such form as the Department may by regulations prescribe, setting forth the grounds on which such protest is based. If such a protest is filed, the Department shall reconsider the denial and, if the taxpayer has so requested, shall grant the taxpayer or his authorized representative a hearing. With respect to protests filed with the Department prior to July 1, 2013 that would otherwise be subject to the jurisdiction of the Illinois Independent Tax Tribunal, the taxpayer may elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012 on or after July 1, 2013, but not later than 30 days after the date on which the protest was filed. If made, the election shall be irrevocable.

A claimant who, on or after July 1, 2013, wishes to protest a denial that is subject to the jurisdiction of the Illinois Independent Tax Tribunal shall do so by filing a petition with the Illinois Independent Tax Tribunal pursuant to the Illinois Independent Tax Tribunal Act of 2012.

(b) Notice of decision. With respect to protests that are subject to the jurisdiction of the Department, if the taxpayer has not made an election to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, then as soon as practicable after such reconsideration and hearing, if any, the Department shall issue a notice of decision by mailing such notice by certified or registered mail. Such notice shall set forth briefly the Department's findings of fact and the basis of decision in each case decided in whole or in part adversely to the claimant.

(c) Request for rehearing. Within 30 days after the mailing of a notice of decision as provided in subsection (b), the claimant may file with the Department a written request for rehearing in such form as the Department may by regulations prescribe, setting forth the grounds on which rehearing is requested. In any such case, the Department shall, in its discretion, grant either a rehearing or Departmental review unless, within 10 days of receipt of such request, it shall issue a denial of such request by mailing such denial to the claimant by certified or registered mail. If rehearing or Departmental review is granted, as soon as practicable after such rehearing or Departmental review, the Department shall issue a notice of final decision as provided in subsection (b).

(d) Finality of decision. If the taxpayer fails to file a timely protest or petition under subsection (a) of this Section, then the Department's notice of deficiency shall become a final assessment at the end of the 60th day after the

date of issuance of the notice of deficiency. If the protest is subject to the jurisdiction of the Department, and the taxpayer does not elect to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, then the action of the Department on the claimant's protest shall become final:

(1) 30 days after issuance of a notice of decision as provided in subsection (b); or

(2) If a timely request for rehearing was made, upon the issuance of a denial of such request or the issuance of a notice of final decision as provided in subsection (c).

If the taxpayer files a petition with the Illinois Independent Tax Tribunal, or otherwise elects to be subject to the provisions of the Illinois Independent Tax Tribunal Act of 2012, then the Department's decision will become final as provided in that Act.

Sec. 911. Limitations on Claims for Refund.

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

(1) A claim for refund shall be filed not later than 3 years after the date the return was filed (in the case of returns required under Article 7 of this Act respecting any amounts withheld as tax, not later than 3 years after the 15th day of the 4th month following the close of the calendar year in which such withholding was made), or one year after the date the tax was paid, whichever is the later; and

(2) No credit or refund shall be allowed or made with respect to the year for which the claim was filed unless such claim is filed within such period.

(b) Federal changes.

(1) In general. In any case where notification of an alteration is required by Section 506 (b), a claim for refund may be filed within 2 years after the date on which such notification was due (regardless of whether such notice was given), but the amount recoverable pursuant to a claim filed under this Section shall be limited to the amount of any overpayment resulting under this Act from recomputation of the taxpayer's net income, net loss, or Article 2 credits for the taxable year after giving effect to the item or items reflected in the alteration required to be reported.

(2) Tentative carryback adjustments paid before January 1, 1974. If, as the result of the payment before January 1, 1974 of a federal tentative carryback adjustment, a notification of an alteration is required under Section 506 (b), a claim for refund may be filed at any time before January 1, 1976, but the amount recoverable pursuant to a claim filed under this Section shall be limited to the amount of any overpayment resulting under this Act from recomputation of the taxpayer's base income for the taxable year after giving effect to the federal alteration resulting from the tentative carryback adjustment irrespective of any limitation imposed in paragraph (l) of this subsection.

(c) Extension by agreement. Where, before the expiration of the time prescribed in this section for the filing of a claim for refund, both the Department and the claimant shall have consented in writing to its filing after such time, such claim may be filed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. In the case of a taxpayer who is a partnership, Subchapter S corporation, or trust and who enters into an agreement with the Department pursuant to this subsection on or after January 1, 2003, a claim for refund may be filed by the partners, shareholders, or beneficiaries of the taxpayer at any time prior to the expiration of the period agreed upon. Any refund allowed pursuant to the claim, however, shall be limited to the amount of any overpayment of tax due under this Act that results from recomputation of items of income, deduction, credits, or other amounts of the taxpayer that are taken into account by the partner, shareholder, or beneficiary in computing its liability under this Act.

(d) Limit on amount of credit or refund.

(1) Limit where claim filed within 3-year period. If the claim was filed by the claimant during the 3-year period prescribed in subsection (a), the amount of the credit or refund shall not exceed the portion of the tax paid within the period, immediately preceding the filing of the claim, equal to 3 years plus the period of any extension of time for filing the return.

(2) Limit where claim not filed within 3-year period. If the claim was not filed within such 3-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the one year immediately preceding the filing of the claim.

(e) Time return deemed filed. For purposes of this section a tax return filed before the

last day prescribed by law for the filing of such return (including any extensions thereof) shall be deemed to have been filed on such last day.

(f) No claim for refund or credit based on the taxpayer's taking a credit for estimated tax payments as provided by Section 601(b)(2) or for any amount paid by a taxpayer pursuant to Section 602(a) or for any amount of credit for tax withheld pursuant to Article 7 may be filed unless a return was filed for the tax year not more than 3 years after the due date, as provided by Section 505, of the return which was required to be filed relative to the taxable year for which the payments were made or for which the tax was withheld. The changes in this subsection (f) made by this amendatory Act of 1987 shall apply to all taxable years ending on or after December 31, 1969.

(g) Special Period of Limitation with Respect to Net Loss Carrybacks. If the claim for refund relates to an overpayment attributable to a net loss carryback as provided by Section 207, in lieu of the 3 year period of limitation prescribed in subsection (a), the period shall be that period which ends 3 years after the time prescribed by law for filing the return (including extensions thereof) for the taxable year of the net loss which results in such carryback (or, on and after August 13, 1999, with respect to a change in the carryover of an Article 2 credit to a taxable year resulting from the carryback of a Section 207 loss incurred in a taxable year beginning on or after January 1, 2000, the period shall be that period that ends 3 years after the time prescribed by law for filing the return (including extensions of that time) for that subsequent taxable year), or the period prescribed in subsection (c) in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to such carryback. On and after August 13, 1999, if the claim for refund relates to an overpayment attributable to the carryover of an Article 2 credit, or of a Section 207 loss, earned, incurred (in a taxable year beginning on or after January 1, 2000), or used in a year for which a notification of a change affecting federal taxable income must be filed under subsection (b) of Section 506, the claim may be filed within the period prescribed in paragraph (1) of subsection (b) in respect of the year for which the notification is required. In the case of such a claim, the amount of the refund may exceed the portion of the tax paid within the period provided in subsection (d) to the extent of the amount of the overpayment attributable to the recomputation of the taxpayer's Article 2 credits, or Section 207 loss, earned, incurred, or used in the taxable year for which the notification is given.

(h) Claim for refund based on net loss. On and after August 23, 2002, no claim for refund shall be allowed to the extent the refund is the result of an amount of net loss incurred in any taxable year ending prior to December 31, 2002 under Section 207 of this Act that was not reported to the Department within 3 years of the due date (including extensions) of the return for the loss year on either the original return filed by the taxpayer or on amended return or to the extent that the refund is the result of an amount of net loss incurred in any taxable year under Section 207 for which no return was filed within 3 years of the due date (including extensions) of the return for the loss year. (Source: P.A. 91-541, eff. 8-13-99; 92-846, eff. 8-23-02.)

(i) Periods of limitation suspended while taxpayer is unable to manage financial affairs due to disability. In the case of an individual, the running of the periods specified in this Section shall be suspended during any period when that individual is financially disabled.

For purposes of this subsection (i), an individual is financially disabled if that individual is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment of the individual that can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months.

An individual shall not be treated as financially disabled during any period when that individual's spouse or any other person is authorized to act on behalf of that individual with respect to financial matters.

Sec. 911.1.

If the Department withholds any refund due under this Act because of any other liability to the State and if the return for which such refund is due is a joint return for a taxable year ending before December 31, 2009, the taxpayer who jointly filed such return and who is not liable to the State shall be entitled to that portion of the refund attributable to himself or herself. (Source: P.A. 85-473.)

Sec. 911.2. Refunds withheld; tax claims of other states.

(a) Definitions. In this Section the following terms have the meanings indicated.

"Claimant state" means any state or the District of Columbia that requests the withholding of a refund pursuant to this Section and that extends a like comity for the collection of taxes owed to this State.

"Income tax" means any amount of income tax imposed on taxpayers under the laws of the State of Illinois or the claimant state, including additions to tax for penalties and interest.

"Refund" means a refund of overpaid income taxes imposed by the State of Illinois or the claimant state.

"Tax officer" means a unit or official of the claimant state, or the duly authorized agent of that unit or official, charged with the imposition, assessment, or collection of state income taxes.

"Taxpayer" means any individual person identified by a claimant state under this Section as owing taxes to that claimant state, and in the case of a refund arising from the filing of a joint return, the taxpayer's spouse.

(b) In general. Except as provided in subsection (c) of this Section, a tax officer may:

(1) certify to the Director the existence of a taxpayer's delinquent income tax liability; and

(2) request the Director to withhold any refund to which the taxpayer is entitled.

(c) Comity. A tax officer may not certify or request the Director to withhold a refund unless the laws of the claimant state:

(1) allow the Director to certify an income tax liability;

(2) allow the Director to request the tax officer to withhold the taxpayer's tax refund; and

(3) provide for the payment of the refund to the State of Illinois.

(d) Certification. A certification by a tax officer to the Director shall include:

(1) the full name and address of the taxpayer and any other names known to be used by the taxpayer;

(2) the social security number or federal tax identification number of the taxpayer;

(3) the amount of the income tax liability; and

(4) a statement that all administrative and judicial remedies and appeals have been exhausted or have lapsed and that the assessment of tax, interest, and penalty has become final.

(e) Notification. As to any taxpayer due a refund, the Director shall:

(1) notify the taxpayer that a claimant state has provided certification of the existence of an income tax liability;

(2) inform the taxpayer of the tax liability certified, including a detailed statement for each taxable year showing tax, interest, and penalty;

(3) inform the taxpayer that failure to file a protest in accordance with subsection (f) of this Section shall constitute a waiver of any demand against this State for the amount certified;

(3.5) inform the taxpayer that the refund has been withheld and that the tax liability has been paid to the claimant state as provided in subsection (i) of this Section;

(4) provide the taxpayer with notice of an opportunity to request a hearing to challenge the certification; and

(5) inform the taxpayer that the hearing may be requested (i) pursuant to Section 910 of this Act, or (ii) with the tax officer, in accordance with the laws of the claimant state.

(f) Protest of withholding. A taxpayer may protest the withholding of a refund pursuant to Section 910 of this Act (except that the protest shall be filed within 30 days after the date of the Director's notice of certification pursuant to subsection (e) of this Section).

(g) Certification as prima facie evidence. If the taxpayer requests a hearing pursuant to Section 910 of this Act, the certification of the tax officer shall be prima facie evidence of the correctness of the taxpayer's delinquent income tax liability to the certifying state.

(h) Rights of spouses to refunds from joint returns. If a certification is based upon the tax debt of only one taxpayer and if the refund is based upon a joint personal income tax return for a taxable year ending before December 31, 2009, the nondebtor spouse shall have the right to:

(1) notification, as provided in subsection (e) of this Section;

(2) protest, as to the withholding of such spouse's share of the refund, as provided in subsection (f) of this Section; and

(3) payment of his or her share of the refund, provided the amount of the overpayment refunded to the spouse shall not exceed the amount of the joint overpayment.

(i) Withholding and payment of refund. Upon receipt of a request for withholding in accordance with subsection (b) of this Section, the Director shall:

(1) withhold any refund that is certified by the tax officer;

(2) pay to the claimant state the entire refund or the amount certified, whichever is less;

(3) pay any refund in excess of the amount certified to the taxpayer; and

(4) if a refund is less than the amount certified, withhold amounts from subsequent refunds due the taxpayer, if the laws of the claimant state provide that the claimant state shall withhold subsequent refunds of taxpayers certified to that state by the Director.

(j) Determination that withholding cannot be made. After receiving a certification from a tax officer, the Director shall notify the claimant state if the Director determines that a withholding cannot be made.

(k) Director's authority. The Director shall have the authority to enter into agreements with the tax officers of claimant state relating to:

(1) procedures and methods to be employed by a claimant state with respect to the operation of this Section;

(2) safeguards against the disclosure or inappropriate use of any information obtained or maintained pursuant to this Section that identifies, directly or indirectly, a particular taxpayer;

(3) a minimum tax debt, amounts below which, in light of administrative expenses and efficiency, shall, in the Director's discretion, not be subject to the withholding procedures set forth in this Section.

(l) Remedy not exclusive. The collection procedures prescribed by this Section are in addition to, and not in substitution for, any other remedy available by law. (Source: P.A. 92-492, eff. 1-1-02; 92-826, eff. 8-21-02.)

Sec. 911.3. Refunds withheld; order of honoring requests.

The Department shall honor refund withholding requests in the following order:

(1) a refund withholding request to collect an unpaid State tax;

(2) a refund withholding request to collect certified past due child support amounts under Section 2505-650 of the Department of Revenue Law of the Civil Administrative Code of Illinois;

(3) a refund withholding request to collect any debt owed to the State;

(4) a refund withholding request made by the Secretary of the Treasury of the United States, or his or her delegate, to collect any tax liability arising from Title 26 of the United States Code;

(4.5) a refund withholding request made by the Secretary of the Treasury of the United States, or his or her delegate, to collect any nontax debt owed to the United States as authorized under subsection (i-1) of Section 10 of the Illinois State Collection Act of 1986;

(5) a refund withholding request pursuant to Section 911.2 of this Act; and

(6) a refund withholding request to collect certified past due fees owed to the Clerk of the Circuit Court as authorized under Section 2505-655 of the Department of Revenue Law of the Civil Administrative Code of Illinois.

Sec. 912. Recovery Of Erroneous Refund.

An erroneous refund shall be considered a deficiency of tax on the date made, and shall be deemed assessed and shall be collected as provided in sections 903 and 904. (Source: P.A. 76-261.)

Sec. 913. Access To Books And Records.

All books and records and other papers and documents which are required by this Act to be kept shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. (Source: P.A. 89-399, eff. 8-20-95.)

Sec. 914. Conduct Of Investigations And Hearings.

For the purpose of administering and enforcing the provisions of this Act, the Department, or any officer or employee of the Department designated, in writing, by the Director may hold investigations and hearings concerning

any matters covered by this Act that are not otherwise delegated to the Illinois Independent Tax Tribunal, and may examine any books, papers, records or memoranda bearing upon such matters, and may require the attendance of any person, or any officer or employee of such person, having knowledge of such matters, and may take testimony and require proof for its information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made or approved or confirmed by the Department. The Director, or any officer or employee of the Department authorized by the Director shall have power to administer oaths to such persons. The books, papers, records and memoranda of the Department, or parts thereof, may be proved in any hearing, investigation, or legal proceeding by a reproduced copy thereof or by a computer print-out of Department records, under the certificate of the Director. If reproduced copies of the Department's books, papers, records or memoranda are offered as proof, the Director must certify that those copies are true and exact copies of such records on file with the Department. If computer print-outs of records of the Department are offered as proof, the Director must certify that those computer print-outs are true and exact representations of records properly entered into standard electronic computing equipment, in the regular course of the Department's business, at or reasonably near the time of the occurrence of the facts recorded, from trustworthy and reliable information. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

Sec. 915. Immunity Of Witnesses.

No person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation or upon any hearing, when ordered to do so by the Department or any officer or employee thereof, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty, but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he may testify or produce evidence, documentary or otherwise, before the Department or an officer or employee thereof; provided, that such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under oath. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. (Source: P.A. 76-261.)

Sec. 916. Production Of Witnesses And Records.

(a) Subpoenas. The Department or any officer or employee of the Department designated in writing by the Director, shall at its or his or her own instance, or on the written request of any other party to the proceeding, issue subpoenas requiring the attendance of and the giving of testimony by witnesses, and subpoenas duces tecum requiring the production of books, papers, records or memoranda. All subpoenas and subpoenas duces tecum issued under this Act may be served by any person of full age.

(b) Fees. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before a Circuit Court of this State, such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Department or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any other party to any such proceeding the Department may require that the cost of service of the subpoena or subpoenas duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Department, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum so issued shall be served in the same manner as a subpoena issued out of a court.

(c) Judicial enforcement. Any Circuit Court of this State, upon the application of the Department or any officer or employee thereof, or upon the application of any other party to the proceeding may, in its discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Department or any officer or employee thereof conducting an investigation or holding a hearing not otherwise delegated to the Illinois Independent Tax Tribunal, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before the Court.

Sec. 917. Confidentiality and information sharing.

(a) Confidentiality. Except as provided in this Section, all information received by the Department from returns filed under this Act, or from any investigation conducted under the provisions of this Act, shall be confidential, except for official purposes within the Department or pursuant to official procedures for collection of any State tax or pursuant to an investigation or audit by the Illinois State Scholarship Commission of a delinquent student loan or monetary award or enforcement of any civil or criminal penalty or sanction imposed by this Act or by another statute imposing a State tax, and any person who divulges any such information in any manner, except for such purposes and pursuant to order of the Director or in accordance with a proper judicial order, shall be guilty of a Class A misdemeanor. However, the provisions of this paragraph are not applicable to (i) the Department of Healthcare and Family Services (formerly Department of Public Aid), State's Attorneys, and the Attorney General for child support enforcement purposes and (ii) a licensed attorney representing the taxpayer where an appeal or a protest has been filed on behalf of the taxpayer. If it is necessary to file information obtained pursuant to this Act in a child support enforcement proceeding, the information shall be filed under seal.

(b) Public information. Nothing contained in this Act shall prevent the Director from publishing or making available to the public the names and addresses of persons filing returns under this Act, or from publishing or making available reasonable statistics concerning the operation of the tax wherein the contents of returns are grouped into aggregates in such a way that the information contained in any individual return shall not be disclosed.

(c) Governmental agencies. The Director may make available to the Secretary of the Treasury of the United States or his delegate, or the proper officer or his delegate of any other state imposing a tax upon or measured by income, for exclusively official purposes, information received by the Department in the administration of this Act, but such permission shall be granted only if the United States or such other state, as the case may be, grants the Department substantially similar privileges. The Director may exchange information with the Department of Healthcare and Family Services and the Department of Human Services (acting as successor to the Department of Public Aid under the Department of Human Services Act) for the purpose of verifying sources and amounts of income and for other purposes directly connected with the administration of this Act and the Illinois Public Aid Code. The Director may exchange information with the Director of the Department of Employment Security for the purpose of verifying sources and amounts of income and for other purposes directly connected with the administration of this Act and Acts administered by the Department of Employment Security. The Director may make available to the Illinois Industrial Commission information regarding employers for the purpose of verifying the insurance coverage required under the Workers' Compensation Act and Workers' Occupational Diseases Act. 1971. The Director may exchange information with the Illinois Department on Aging for the purpose of verifying sources and amounts of income for purposes directly related to confirming eligibility for participation in the programs of benefits authorized by the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act.

The Director may make available to any State agency, including the Illinois Supreme Court, which licenses persons to engage in any occupation, information that a person licensed by such agency has failed to file returns under this Act or pay the tax, penalty and interest shown therein, or has failed to pay any final assessment of tax, penalty or interest due under this Act. The Director may make available to any State agency, including the Illinois Supreme Court, information regarding whether a bidder, contractor, or an affiliate of a bidder or contractor has failed to file returns under this Act or pay the tax, penalty, and interest shown therein, or has failed to pay any final assessment of tax, penalty, or interest due under this Act, for the limited purpose of enforcing bidder and contractor certifications. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security that confers

such a right to vote. A general partnership interest is a voting security.

The Director may make available to any State agency, including the Illinois Supreme Court, units of local government, and school districts, information regarding whether a bidder or contractor is an affiliate of a person who is not collecting and remitting Illinois Use taxes, for the limited purpose of enforcing bidder and contractor certifications.

The Director may also make available to the Secretary of State information that a corporation which has been issued a certificate of incorporation by the Secretary of State has failed to file returns under this Act or pay the tax, penalty and interest shown therein, or has failed to pay any final assessment of tax, penalty or interest due under this Act. An assessment is final when all proceedings in court for review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted. For taxable years ending on or after December 31, 1987, the Director may make available to the Director or principal officer of any Department of the State of Illinois, information that a person employed by such Department has failed to file returns under this Act or pay the tax, penalty and interest shown therein. For purposes of this paragraph, the word "Department" shall have the same meaning as provided in Section of the State Employees Group Insurance Act of 1971.

(d) The Director shall make available for public inspection in the Department's principal office and for publication, at cost, administrative decisions issued on or after January 1, 1995. These decisions are to be made available in a manner so that the following taxpayer information is not disclosed:

(1) The names, addresses, and identification numbers of the taxpayer, related entities, and employees.

(2) At the sole discretion of the Director, trade secrets or other confidential information identified as such by the taxpayer, no later than 30 days after receipt of an administrative decision, by such means as the Department shall provide by rule. The Director shall determine the appropriate extent of the deletions allowed in paragraph (2). In the event the taxpayer does not submit deletions, the Director shall make only the deletions specified in paragraph (1). The Director shall make available for public inspection and publication an administrative decision within 180 days after the issuance of the administrative decision. The term "administrative decision" has the same meaning as defined in Section 3-101 of Article III of the Code of Civil Procedure. Costs collected under this Section shall be paid into the Tax Compliance and Administration Fund.

(e) Nothing contained in this Act shall prevent the Director from divulging information to any person pursuant to a request or authorization made by the taxpayer, by an authorized representative of the taxpayer, or, in the case of information related to a joint return, by the spouse filing the joint return with the taxpayer. (Source: P.A. 89-507, eff. 7-1-97; 90-491, eff. 1-1-98.)

Sec. 918. Place Of Hearings.

All hearings provided for in this Act and not otherwise delegated to the Illinois Independent Tax Tribunal with respect to or concerning a taxpayer having his residence or commercial domicile in this State shall be held at the Department's office nearest to the location of such residence or domicile, except that if the taxpayer has his residence or commercial domicile in Cook County, such hearing shall be held in Cook County. If the taxpayer does not have his residence or commercial domicile in this State, such hearing shall be held in Cook County.

ARTICLE 10. PENALTIES AND INTEREST.

Sec. 1001. Failure to File Tax Returns.

(a) Failure to file tax return. In case of failure to file any tax return required under this Act on the date prescribed therefor, (determined with regard to any extensions of time for filing) there shall be added as a penalty the amount prescribed by Section 3-3 of the Uniform Penalty and Interest Act.

(b) Failure to disclose reportable transaction. Any taxpayer who fails to include on any return or statement any information with respect to a reportable transaction that is required under Section 501(b) of this Act to be included with such return or statement shall pay a penalty in the amount determined under this subsection. Such penalty shall be deemed assessed upon the date of filing of the return for the taxable year in which the taxpayer participates in the reportable transaction. A taxpayer shall not be considered to have complied with the requirements of Section 501(b) of this Act unless the disclosure statement filed with the Department includes all of the information required to be disclosed with respect to a reportable transaction pursuant to Section 6011 of the Internal

Revenue Code, the regulations promulgated under that statute, and regulations promulgated by the Department under Section 501(b) of this Act.

(1) Amount of penalty. Except as provided in paragraph (2), the amount of the penalty under this subsection shall be $15,000 for each failure to comply with the requirements of Section 501(b).

(2) Increase in penalty for listed transactions. In the case of a failure to comply with the requirements of Section 501(b) with respect to a "listed transaction", the penalty under this subsection shall be $30,000 for each failure.

(3) Authority to rescind penalty. The Department may rescind all or any portion of any penalty imposed by this subsection with respect to any violation, if:

(A) the violation is with respect to a reportable transaction other than a listed transaction, and

(B) rescinding the penalty would promote compliance with the requirements of this Act and effective tax administration.

A determination made under this subparagraph (3) may be reviewed in any administrative or judicial proceeding.

(4) Coordination with other penalties. The penalty imposed by this subsection is in addition to any penalty imposed by this Act or the Uniform Penalty and Interest Act. The doubling of penalties and interest authorized by the Illinois Tax Delinquency Amnesty Act (P.A. 93-26) are not applicable to the reportable penalties under subsection (b).

(c) The total penalty imposed under subsection (b) of this Section with respect to any taxable year shall not exceed 10% of the increase in net income (or reduction in Illinois net loss under Section 207 of this Act) that would result had the taxpayer not participated in any reportable transaction affecting its net income for such taxable year. (Source: P.A. 93-840, eff. 7-30-04.)

Sec. 1002. Failure To Pay Tax.

(a) Negligence. If any part of a deficiency is due to negligence or intentional disregard of rules and regulations (but without intent to defraud) there shall be added to the tax as a penalty the amount prescribed by Section 3-5 of the Uniform Penalty and Interest Act.

(b) Fraud. If any part of a deficiency is due to fraud, there shall be added to the tax as a penalty the amount prescribed by Section 3-6 of the Uniform Penalty and Interest Act.

(c) Nonwillful failure to pay withholding tax. If any employer, without intent to evade or defeat any tax imposed by this Act or the payment thereof, shall fail to make a return and pay a tax withheld by him at the time required by or under the provisions of this Act, such employer shall be liable for such taxes and shall pay the same together with the interest and the penalty provided by Sections 3-2 and 3-3, respectively, of the Uniform Penalty and Interest Act and such interest and penalty shall not be charged to or collected from the employee by the employer.

(d) Willful failure to collect and pay over tax. Any person required to collect, truthfully account for, and pay over the tax imposed by this Act who willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, shall, in addition to other penalties provided by law, be liable for the penalty imposed by Section 3-7 of the Uniform Penalty and Interest Act.

(e) Penalties assessable.

(1) In general. Except as otherwise provided in this Act or the Uniform Penalty and Interest Act, the penalties provided by this Act or by the Uniform Penalty and Interest Act shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes and any reference in this Act to the tax imposed by this Act shall be deemed also to refer to penalties provided by this Act or by the Uniform Penalty and Interest Act.

(2) Procedure for assessing certain penalties. For the purposes of Article 9 any penalty under Section 804(a) or Section 1001 shall be deemed assessed upon the filing of the return for the taxable year.

(3) Procedure for assessing the penalty for failure to file withholding returns or annual transmittal forms for wage and tax statements. The penalty imposed by Section 1004 will be asserted by the Department's issuance of a notice of deficiency. If taxpayer files a timely protest, the procedures of Section 908 will be followed. If taxpayer does not file a timely protest, the notice of deficiency will constitute an assessment pursuant to subsection (c) of Section 904.

(4) Assessment of penalty under Section 1005(a). The penalty imposed under Section 1005(a) shall be deemed assessed upon the assessment of the tax to which such penalty relates and shall be collected and paid on notice and demand in the same manner as the tax.

(f) Determination of deficiency. For purposes of subsections (a) and (b), the amount shown as the tax by the taxpayer upon his return shall be taken into account in determining the amount of the deficiency only if such return was filed on or before the last day prescribed by law for the filing of such return, including any extensions of the time for such filing. (Source: P.A. 89-379, eff. 1-1-96.)

Sec. 1003. Interest On Deficiencies.

(a) In general. If any amount of tax imposed by this Act, including tax withheld by an employer, is not paid on or before the date prescribed for payment of such tax (determined without regard to any extensions), interest on such amount shall be paid in the manner and at the rate prescribed in Section 3-2 of the Uniform Penalty and Interest Act for the period from such date to the date of payment of such amount, except that if a waiver of restrictions under Section 907 on the assessment and collection of such amount has been filed, and if notice and demand by the Director for the payment of such amount is not made within 30 days after the filing of such waiver, interest shall not be imposed on such amount for the period beginning immediately after such 30th day and ending with the date of notice and demand.

(b) Interest treated as tax. Interest prescribed under this Section on any tax, including tax withheld by an employer, or on any penalty, shall be deemed assessed upon the assessment of the tax or penalties to which such interest relates and shall be collected and paid on notice and demand in the same manner as tax. Any reference in this Act to the tax imposed by this Act shall be deemed also to refer to interest imposed by this Section on such tax.

(c) Exception as to estimated tax. This Section shall not apply to any failure to pay estimated tax required by Section 803. (Source: P.A. 87-205.)

Sec. 1004. Failure To File Withholding Returns Or Annual Transmittal Forms For Wage And Tax Statements.

In addition to any other penalties imposed by this Act, a taxpayer failing to file a quarterly return or the annual transmittal form for wage and tax statements required by Section 704 or regulations promulgated thereunder shall incur a penalty for each such failure as prescribed by Section 3-3 of the Uniform Penalty and Interest Act. (Source: P.A. 87-205.)

Sec. 1005. Penalty For Underpayment Of Tax.

(a) In general. If any amount of tax required to be shown on a return prescribed by this Act is not paid on or before the date required for filing such return (determined without regard to any extension of time to file), a penalty shall be imposed in the manner and at the rate prescribed by the Uniform Penalty and Interest Act.

(b) Reportable transaction penalty. If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20% of the amount of that understatement. This penalty shall be deemed assessed upon the assessment of the tax to which such penalty relates and shall be collected and paid on notice and demand in the same manner as the tax.

(1) Reportable transaction understatement. For purposes of this Section, the term "reportable transaction understatement" means the sum of subparagraphs (A) and (B):

(A) The product of (i) the amount of the increase (if any) in Illinois net income, as determined by reference to the amount of post-apportioned income that results from a difference between the proper tax treatment of an item to which this subsection applies and the taxpayer's treatment of that item (as shown on the taxpayer's return of tax), including an amended return filed prior to the date the taxpayer is first contacted by the Department regarding the examination of the return, and (ii) the applicable tax rates under Section 201 of this Act.

(B) Special rules in the case of carrybacks and carryovers. The penalty for an understatement of income attributable to a reportable transaction applies to any portion of an understatement for a year to which a loss, deduction, or credit is carried that is attributable to a reportable transaction for

that year in which the carryback or carryover of the loss, deduction, or credit arises (the "loss or credit year").

(2) Items to which subsection applies. This subsection shall apply to any item which is attributable to either of the following: (i) any listed transaction as defined in Treasury Regulations Section 1.6011-4, and (ii) any reportable transaction as defined in Treasury Regulations Section 1.6011-4 (other than a listed transaction) if a significant purpose of the transaction is the avoidance or evasion of federal income tax.

(3) Subsection (b) shall be applied by substituting "30%" for "20%" with respect to the portion of any reportable transaction understatement with respect to which the requirements of (4)(B)(i) of this subsection are not met.

(4) Reasonable cause exception.

(A) In general. No penalty shall be imposed under this subsection with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

(B) Special rules. Subparagraph (A) does not apply to any reportable transaction (including listed transaction) unless all of the following requirements are met:

(i) The relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with Section 501(b) of this Act. A taxpayer failing to adequately disclose in accordance with Section 501(b) shall be treated as meeting the requirements of this subparagraph (i) if the penalty for that failure was rescinded under Section 1001(b)(3) of this Act;

(ii) There is or was substantial authority for such treatment; and

(iii) The taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

(C) Rules relating to reasonable belief. For purposes of subparagraph (B), a taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief meets the requirements of this subparagraph (C):

(i) Such belief must be based on the facts and law that exist at the time the return of tax that includes that tax treatment is filed;

(ii) Such belief must relate solely to the taxpayer's chances of success on the merits of that treatment and does not take into account the possibility that the return will not be audited, that the treatment will not be raised on audit, or that the treatment will be resolved through settlement if it is raised; and

(iii) Such belief is not solely based on the opinion of a disqualified tax advisor or on a disqualified opinion.

(5) Definitions.

(A) Disqualified tax advisor. The term "disqualified tax advisor" is a tax advisor that meets any of the following conditions:

(I) Is a material advisor who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of Sections 267(b) or 707(b)(1) of the Internal Revenue Code) to any person who so participates;

(II) Is compensated directly or indirectly by a material advisor with respect to the transaction;

(III) Has a fee arrangement with respect to the transaction that is contingent on all or part of the intended tax benefits from the transaction being sustained; or

(IV) As determined under regulations prescribed by either the Secretary of the Treasury for federal income tax purposes or the Department, has a continuing financial interest with respect to the transaction.

(B) Disqualified opinion. The term "disqualified opinion" means an opinion that meets any of the following conditions:

(I) Is based on unreasonable factual or legal assumptions (including assumptions as to future events);

(II) Unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person;

(III) Does not identify and consider all relevant facts; or

(IV) Fails to meet any other requirement as either the Secretary of the Treasury for federal income tax purposes or the Department may prescribe.

(C) Material Advisor. The term "material advisor" shall have substantially the same meaning

as the same term is defined under Treasury Regulations Section 301.6112-1, (26 CFR 301.6112-1) and shall include any person that is a material advisor for federal income tax purposes under such regulation.

(6) Effective date. This subsection shall apply to taxable years ending on and after December 31, 2004, except that a reportable transaction understatement shall include an understatement (as determined under paragraph (1)) with respect to any taxable year for which the limitations period on assessment has not expired as of January 1, 2005 that is attributable to a transaction which the taxpayer has entered into after February 28, 2000 and before December 31, 2004 that becomes a listed transaction (as defined in Treasury Regulations Section 1.6011-4(b)(2) at any time.

(c) 100% interest penalty. If a taxpayer has been contacted by the Internal Revenue Service or the Department regarding the use of a potential tax avoidance transaction with respect to a taxable year and has a deficiency with respect to such taxable year or years, there shall be added to the tax attributable to the potential tax avoidance transaction (determined as described in subsection (b)(1) of Section 1005) an amount equal to 100% of the interest assessed under the Uniform Penalty and Interest Act (determined without regard to subsection (f) of Section 3-2 of such Act) for the period beginning on the last date prescribed by law for the payment of such tax and ending on the date of the notice of deficiency. Such penalty shall be deemed assessed upon the assessment of the interest to which such penalty relates and shall be collected and paid in the same manner as such interest. The penalty imposed by this subsection is in addition to any penalty imposed by this Act or the Uniform Penalty and Interest Act. For purposes of this subsection and subsection (d) of this Section, the term "potential tax avoidance transaction" means any tax shelter as defined in Section 6111 of the Internal Revenue Code. This subsection shall apply to taxable years ending on and after December 31, 2004, except that the penalty may also be imposed with respect to any taxable year for which the limitations period on assessment has not expired as of January 1, 2005 that is attributable to a transaction in which the taxpayer has entered into after February 28, 2000 and before December 31, 2004, which transaction becomes a listed transaction (as defined in Treasury Regulations Section 1.6011-4(b)(2)) at any time.

(d) 150% interest rate. For taxable years ending on and after July 1, 2002, for any notice of deficiency issued before the taxpayer is contacted by the Internal Revenue Service or the Department regarding a potential tax avoidance transaction, the taxpayer is subject to interest as provided under Section 3-2 of the Uniform Penalty and Interest Act, but with respect to any deficiency attributable to a potential tax avoidance transaction, the taxpayer is subject to interest at a rate of 150% of the otherwise applicable rate.

(e) Coordination with other penalties. Except as provided in regulations, the penalties imposed by this Section are in addition to any other penalty imposed by this Act or the Uniform Penalty and Interest Act. The doubling of penalties and interest authorized by the Illinois Tax Delinquency Amnesty Act (P.A. 93-26), are not applicable to the reportable transaction penalties and interest under subsections (b), (c), and (d).

(Source: P.A. 87-205.)

Sec. 1006. Frivolous Returns.

In addition to any other penalty provided by this Act there is imposed a penalty of $500 upon any individual who files a purported return that does not contain information from which the substantial correctness of the stated tax liability can be determined or contains information indicating that the stated tax liability is substantially incorrect and such conduct is due to a desire to delay or impede the administration of this Act or is due to a position that is frivolous. This Section is applicable to returns filed for taxable years ending on or after December 31, 1987. (Source: P.A. 85-299.)

Sec. 1007. Failure to register tax shelter or maintain list.

(a) Penalty Imposed. Any person that fails to comply with the requirements of Section 1405.5 shall incur a penalty as provided in subsection (b). A person shall not be in compliance with the requirements of Section 1405.5 unless and until the required return has been filed and that return contains all of the information required to be included by the Secretary under federal law.

(b) Amount of Penalty. The following penalties apply:

(1) Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure is $15,000.

(2) If the failure is with respect to a listed transaction under subsection (c) of Section 1405.5, the penalty shall be $100,000.

(3) In the case of each failure to comply with the requirements of subsection (a) or subsection (b) of Section 1405.6, the penalty shall be $15,000.

(4) If the failure is with respect to a listed transaction under subsection (c) of Section 1405.6, the penalty shall be $100,000.

(c) Authority to rescind penalty. The Department may rescind all or any portion of any penalty imposed by this subsection with respect to any violation, if

(1) the violation is with respect to a reportable transaction other than a listed transaction, and

(2) rescinding the penalty would promote compliance with the requirements of this Act and effective tax administration.

(d) Coordination with other penalties. The penalty imposed by this Section is in addition to any penalty imposed by this Act or the Uniform Penalty and Interest Act. (Source: P.A. 93-840, eff. 7-30-04.)

Sec. 1008. Promoting tax shelters.

Except as herein provided, the provisions of Section 6700 of the Internal Revenue Code shall apply for purposes of this Act as if such Section applied to an Illinois deduction, credit, exclusion from income, allocation or apportionment rule, or other Illinois tax benefit. Notwithstanding Section 6700(a) of the Internal Revenue Code, if an activity with respect to which a penalty imposed under Section 6700(a) of the Internal Revenue Code, as applied for purposes of this Act, involves a statement described in Section 6700(a)(2)(A) of the Internal Revenue Code, as applied for purposes of this Act, the amount of the penalty imposed under this Section shall be the greater of $10,000 or 50% of the gross income received (or to be received) from any person to whom such statement is furnished that is required to file a return under Section 502 of this Act.

ARTICLE 11. LIENS AND JEOPARDY ASSESSMENT.

Sec. 1101. Lien For Tax.

(a) If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, additional amount, addition to tax, or assessable penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the State of Illinois upon all property and rights to property, whether real or personal, belonging to such person.

(b) Unless another date is specifically fixed by law, the lien imposed by subsection (a) of this Section shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

(c) Deficiency procedure. If the lien arises from an assessment pursuant to a notice of deficiency, such lien shall not attach and the notice referred to in this section shall not be filed until all proceedings in court for review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted.

(d) Notice of lien. The lien created by assessment shall terminate unless a notice of lien is filed, as provided in section 1103 hereof, within 3 years from the date all proceedings in court for the review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted. Where the lien results from the filing of a return without payment of the tax or penalty shown therein to be due, the lien shall terminate unless a notice of lien is filed within 3 years from the date such return was filed with the Department. For the purposes of this subsection (d), a tax return filed before the last day prescribed by law, including any extension thereof, shall be deemed to have been filed on such last day. The time limitation period on the Department's right to file a notice of lien shall not run (1) during any period of time in which the order of any court has the effect of enjoining or restraining the Department from filing such notice of lien, or (2) during the term of a repayment plan that taxpayer has entered into with the Department, as long as taxpayer remains in compliance with the terms of the repayment plan.

(Source: P.A. 86-905.)

Sec. 1102. Jeopardy Assessments.

(a) Jeopardy assessment and lien.

(1) Assessment. If the Department finds that a taxpayer is about to depart from the State, or to conceal himself or his property, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect any

amount of tax or penalties imposed under this Act unless court proceedings are brought without delay, or if the Department finds that the collection of such amount will be jeopardized by delay, the Department shall give the taxpayer notice of such findings and shall make demand for immediate return and payment of such amount, whereupon such amount shall be deemed assessed and shall become immediately due and payable.

(2) Filing of lien. If the taxpayer, within 5 days after such notice (or within such extension of time as the Department may grant), does not comply with such notice or show to the Department that the findings in such notice are erroneous, the Department may file a notice of jeopardy assessment lien in the office of the recorder of the county in which any property of the taxpayer may be located and shall notify the taxpayer of such filing. Such jeopardy assessment lien shall have the same scope and effect as a statutory lien under this Act. The taxpayer is liable for the filing fee incurred by the Department for filing the lien and the filing fee incurred by the Department to file the release of that lien. The filing fees shall be paid to the Department in addition to payment of the tax, penalty, and interest included in the amount of the lien.

(b) Termination of taxable year. In the case of a tax for a current taxable year, the Director shall declare the taxable period of the taxpayer immediately terminated and his notice and demand for a return and immediate payment of the tax shall relate to the period declared terminated, including therein income accrued and deductions incurred up to the date of termination if not otherwise properly includible or deductible in respect of such taxable year.

(c) Protest. If the taxpayer believes that he does not owe some or all of the amount for which the jeopardy assessment lien against him has been filed, or that no jeopardy to the revenue in fact exists, he may protest within 20 days after being notified by the Department of the filing of such jeopardy assessment lien and request a hearing, whereupon the Department shall hold a hearing in conformity with the provisions of section 908 and, pursuant thereto, shall notify the taxpayer of its decision as to whether or not such jeopardy assessment lien will be released. (Source: P.A. 83-358.)

Sec. 1103. Filing and Priority of Liens.

(a) Filing with Recorder. Nothing in this Article shall be construed to give the Department a preference over the rights of any bona fide purchaser, holder of a security interest, mechanics lienor, mortgagee, or judgment lien creditor arising prior to the filing of a regular notice of lien or a notice of jeopardy assessment lien in the office of the recorder in the county in which the property subject to the lien is located. For purposes of this section, the term "bona fide," shall not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the notice of lien who executed such chattel or real property mortgage or the document evidencing such credit transaction. Such lien shall be inferior to the lien of general taxes, special assessments and special taxes heretofore or hereafter levied by any political subdivision of this State.

(b) Filing with Registrar. In case title to land to be affected by the notice of lien or notice of jeopardy assessment lien is registered under the provisions of "An Act concerning land titles," approved May 1, 1897, as amended, such notice shall be filed in the office of the Registrar of Titles of the county within which the property subject to the lien is situated and shall be entered upon the register of titles as a memorial of charge upon each folium of the register of titles affected by such notice, and the Department shall not have a preference over the rights of any bona fide purchaser, mortgagee, judgment creditor or other lien holder arising prior to the registration of such notice.

(c) Index. The recorder of each county shall procure a file labeled "State Tax Lien Notices" and an index book labeled "State Tax Lien Index." When notice of any lien or jeopardy assessment lien is presented to him for filing, he shall file it in numerical order in the file and shall enter it alphabetically in the index. The entry shall show the name and last known address of the person named in the notice, the serial number of the notice, the date and hour of filing, whether it is a regular lien or a jeopardy assessment lien, and the amount of tax and penalty due and unpaid, plus the amount of interest due at the time when the notice of lien or jeopardy assessment is filed.

(d) No recorder or registrar of titles of any county shall require that the Department pay any costs or fees in connection with recordation of any notice or other document filed by the Department under this Act at the time such notice or other document is presented for recordation. The recorder or registrar of each county, in order to

receive payment for fees or costs incurred by the Department, shall present the Department with monthly statements indicating the amount of fees and costs incurred by the Department and for which no payment has been received. This amendatory Act of 1987 applies to all liens heretofore or hereafter filed.

(e) The taxpayer is liable for the filing fee incurred by the Department for filing the lien and the filing fee incurred by the Department to file the release of that lien. The filing fees shall be paid to the Department in addition to payment of the tax, penalty, and interest included in the amount of the lien. (Source: P.A. 86-905.)

Sec. 1104. Duration Of Lien.

The lien provided herein shall continue for 20 years from the date of filing the notice of lien under the provisions of section 1103 unless sooner released, or otherwise discharged. The provisions of this amendatory Act of 1984 shall apply to any lien which has not expired on or before the effective date of this amendatory Act of 1984. (Source: P.A. 83-1416.)

Sec. 1105. Release of Liens.

(a) In general. Upon payment by the taxpayer to the Department in cash or by guaranteed remittance of an amount representing the filing fees and charges for the lien and the filing fees and charges for the release of that lien, the Department shall release all or any portion of the property subject to any lien provided for in this Act and file that complete or partial release of lien with the recorder of the county where that lien was filed if it determines that the release will not endanger or jeopardize the collection of the amount secured thereby.

(b) Judicial determination. If on judicial review the final judgment of the court is that the taxpayer does not owe some or all of the amount secured by the lien against him, or that no jeopardy to the revenue exists, the Department shall release its lien to the extent of such finding of nonliability, or to the extent of such finding of no jeopardy to the revenue. The taxpayer shall, however, be liable for the filing fee paid by the Department to file the lien and the filing fee required to file a release of the lien. The filing fees shall be paid to the Department.

(c) Payment. The Department shall also release its jeopardy assessment lien against the taxpayer whenever the tax and penalty covered by such lien, plus any interest which may be due and an amount representing the filing fee to file the lien and the filing fee required to file a release of that lien, are paid by the taxpayer to the Department in cash or by guaranteed remittance.

(d) Certificate of release. The Department shall issue a certificate of complete or partial release of the lien upon payment by the taxpayer to the Department in cash or by guaranteed remittance of an amount representing the filing fee paid by the Department to file the lien and the filing fee required to file the release of that lien:

(1) To the extent that the fair market value of any property subject to the lien exceeds the amount of the lien plus the amount of all prior liens upon such property;

(2) To the extent that such lien shall become unenforceable;

(3) To the extent that the amount of such lien is paid by the person whose property is subject to such lien, together with any interest and penalty which may become due under this Act between the date when the notice of lien is filed and the date when the amount of such lien is paid;

(4) To the extent that there is furnished to the Department on a form to be approved and with a surety or sureties satisfactory to the Department a bond that is conditioned upon the payment of the amount of such lien, together with any interest which may become due under this Act after the notice of lien is filed, but before the amount thereof is fully paid;

(5) To the extent and under the circumstances specified in this section. A certificate of complete or partial release of any lien shall be held conclusive that the lien upon the property covered by the certificate is extinguished to the extent indicated by such certificate. Such release of lien shall be issued to the person, or his agent, against whom the lien was obtained and shall contain in legible letters a statement as follows:

FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE FILED WITH THE RECORDER OR THE REGISTRAR OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.

(e) Filing. When a certificate of complete or partial release of lien issued by the Department is presented for filing in the office of the recorder or Registrar of Titles where a notice of lien or notice of jeopardy assessment lien was filed:

(1) The recorder, in the case of nonregistered property, shall permanently attach the certificate of release to the notice of lien or notice of jeopardy assessment lien and shall enter the certificate of release and the date in the "State Tax Lien Index" on the line where the notice of lien or notice of jeopardy assessment lien is entered; and

(2) In the case of registered property, the Registrar of Titles shall file and enter upon each folium of the register of titles affected thereby a memorial of the certificate of release which memorial when so entered shall act as a release pro tanto of any memorial of such notice of lien or notice of jeopardy assessment lien previously filed and registered.

Sec. 1106. Nonliability For Costs.

The Department shall not be required to furnish any bond nor to make a deposit for or pay any costs or fees of any court or officer thereof in any legal proceedings pursuant to the provisions of this Act. (Source: P.A. 83-358; 83-889.)

Sec. 1107. Claim To Property.

Whenever any process, issued from any court for the enforcement or collection of any liability created by this Act, shall be levied by any sheriff or other authorized person upon any personal property, and such property shall be claimed by any person other than the defendant as exempt from enforcement of a judgment thereon by virtue of the exemption laws of this State, then it shall be the duty of the person making such claim to give notice in writing of his claim and of his or her intention to prosecute the same, to the sheriff or other person within 10 days after the making of the levy. On receiving such notice, the sheriff or other person shall proceed in accordance with the provisions of Part 2 of Article XII of the Code of Civil Procedure, as amended. The giving of such notice within the 10-day period shall be a condition precedent to any judicial action against the sheriff or other authorized person for wrongfully levying, seizing or selling the property and any such person who fails to give notice within the time shall be forever barred from bringing any judicial action against such sheriff or other person for injury or damages to or conversion of said property. (Source: P.A. 83-346.)

Sec. 1108. Foreclosure On Real Property.

In addition to any other remedy provided for by the laws of this State, and provided that no hearing or proceedings for review provided by this Act shall be pending, and the time for the taking thereof shall have expired, the Department may foreclose in the circuit court any lien on real property for any tax or penalty imposed by this Act to the same extent and in the same manner as in the enforcement of other liens. Such proceedings to foreclose shall not be instituted more than 5 years after the filing of the notice of lien under the provisions of Section 1103. The process, practice and procedure for such foreclosure shall be the same as provided in the Civil Practice Law, as amended. (Source: P.A. 82-783.)

Sec. 1109. Demand And Seizure.

In addition to any other remedy provided for by the laws of this State, if the tax imposed by this Act is not paid within the time required by this Act, the Department, or some person designated by it, may cause a demand to be made on the taxpayer for the payment thereof. If such tax remains unpaid for 10 days after such demand has been made and no proceedings have been taken to review the same, the Department may issue a warrant directed to any sheriff or other person authorized to serve process, commanding the sheriff or other person to levy upon the property and rights to property (whether real or personal, tangible or intangible) of the taxpayer, without exemption, found within his jurisdiction, for the payment of the amount thereof with the added penalties, interest and the cost of executing the warrant. The term "levy" includes the power of distraint and seizure by any means. In any case in which the warrant to levy has been issued, the sheriff or other person to whom the warrant was directed may seize and sell such property or rights to property. Such warrant shall be returned to the Department together with the money collected by virtue thereof within the time therein specified, which shall not be less than 20 nor more than 90 days from the date of the warrant. The sheriff or other person to whom such warrant is directed shall proceed in the same manner as prescribed by law in respect to the enforcement against property upon judgments by a court, and shall be entitled to the same fees for his services in executing the warrant, to be collected in the same manner. The Department, or some officer, employee or agent designated by it, is hereby authorized to bid for and purchase any property sold under the provisions hereof. No proceedings for a levy under this Section shall be commenced more than 20 years after the latest date for filing of the notice of lien under the provisions of Section 1103, without regard to whether such notice was actually filed.

Any officer or employee of the Department designated in writing by the Director is authorized to serve process under this Section to levy upon accounts or other intangible assets of a taxpayer held by a financial organization, as defined in Section 1501 of this Act. In addition to any other provisions of this Section, any officer or employee of the Department designated in writing by the Director may levy upon the following property and rights to property belonging to a taxpayer: contractual payments, accounts and notes receivable and other evidences of debt, and interest on bonds, by serving a notice of levy on the person making such payment. Levy shall not be made until the Department has caused a demand to be made on the taxpayer in the manner provided above. In addition to any other provisions of this Section, any officer or employee of the Department designated in writing by the Director, may levy upon the salary, wages, commissions and bonuses of any employee, including officers, employees, or elected officials of the United States as authorized by Section 5520a of the Government Organization and Employees Act (5 U.S.C. 5520a), but not upon the salary or wages of officers, employees, or elected officials of any state other than this State, by serving a notice of levy on the employer, as defined in Section 701(d). Levy shall not be made until the Department has caused a demand to be made on the employee in the manner provided above. The provisions of Section 12-803 of the Code of Civil Procedure relating to maximum compensation subject to collection under wage deduction orders shall apply to all levies made upon compensation under this Section. To the extent of the amount due on the levy, the employer or other person making payments to the taxpayer shall hold any non-exempt wages or other payments due or which subsequently come due. The levy or balance due thereon is a lien on wages or other payments due at the time of the service of the notice of levy, and such lien shall continue as to subsequent earnings and other payments until the total amount due upon the levy is paid, except that such lien on subsequent earnings or other payments shall terminate sooner if the employment relationship is terminated or if the notice of levy is rescinded or modified. The employer or other person making payments to the taxpayer shall file, on or before the return dates stated in the notice of levy (which shall not be more often than bimonthly) a written answer under oath to interrogatories, setting forth the amount due as wages or other payments to the taxpayer for the payment periods ending immediately prior to the appropriate return date. A lien obtained hereunder shall have priority over any subsequent lien obtained pursuant to Section 12-808 of the Code of Civil Procedure, except that liens for the support of a spouse or dependent children shall have priority over all liens obtained hereunder.

In any case where property or rights to property have been seized by an officer of the Illinois Department of State Police, or successor agency thereto, under the authority of a warrant to levy issued by the Department of Revenue, the Department of Revenue may take possession of and may sell such property or rights to property and the Department of Revenue may contract with third persons to conduct sales of such property or rights to the property. In the conduct of such sales, the Department of Revenue shall proceed in the same manner as is prescribed by law for proceeding against property to enforce judgments which are entered by a circuit court of this State. If, in the Department of Revenue's opinion, no offer to purchase at such sale is acceptable and the State's interest would be better served by retaining the property for sale at a later date, then the Department may decline to accept any bid and may retain the property for sale at a later date. (Source: P.A. 89-399, eff. 8-20-95.)

Sec. 1110. Redemption By State.

The provisions of sections 5g and 5h of the Retailers' Occupation Tax Act (relating to time for redemption by the State of real estate sold at judicial or execution sale) as in effect on the effective date of this Act, or as subsequently amended, shall apply for purposes of this Act as if such sections were set forth herein in their entirety. (Source: P.A. 76-261.)

ARTICLE 12. JUDICIAL REVIEW.

Sec. 1201. Administrative Review Law Illinois Independent Tax Tribunal Act of 2012.

The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review of final actions of the Department referred to in Sections 908 (d) and 910 (d). Such final actions shall constitute "administrative decisions" as defined in Section 3-101 of the Code of Civil Procedure.

Notwithstanding any other provision of law, on and after July 1, 2013, the provisions of the Illinois Independent Tax Tribunal Act of 2012, and the rules adopted pursuant thereto, shall apply to and govern all proceedings for the judicial review

of final administrative decisions of the Department that are subject to that Act, as defined in Section 1-70 of the Illinois Independent Tax Tribunal Act of 2012.

Sec. 1202. Venue.

Except as otherwise provided in the Illinois Independent Tax Tribunal Act of 2012, the Circuit Court of the county wherein the taxpayer has his residence or commercial domicile, or of Cook County in those cases where the taxpayer does not have his residence or commercial domicile in this State, shall have power to review all final administrative decisions of the Department in administering the provisions of this Act.

Sec. 1203. Service, Certification And Dismissal.

(a) Service. Service upon the Director or the Assistant Director of summons issued in an action to review a final administrative decision of the Department shall be service upon the Department.

(b) Certification. The Department shall certify the record of its proceedings if the taxpayer pays to it the sum of 75¢ per page of testimony taken before the Department and 25¢ per page of all other matters contained in such record, except that these charges may be waived where the Department is satisfied that the aggrieved party is a poor person who cannot afford to pay such charges.

(c) Dismissal. If payment for such record is not made by the taxpayer within 30 days after notice from the Department or the Attorney General of the cost thereof, the court in which the proceeding is pending, on motion of the Department, shall dismiss the complaint and shall enter judgment against the taxpayer and in favor of the Department in accordance with the final action of the Department, together with interest on any deficiency to the date of entry of the judgment, and also for costs. (Source: P.A. 76-261.)

Sec. 1204. Modification Of Assessment.

An assessment reviewed under this Article shall be deemed confirmed or abated consistent with the final decision in such proceeding. (Source: P.A. 76-261.)

ARTICLE 13. CRIMES.

Sec. 1301. Willful And Fraudulent Acts.

Any person who is subject to the provisions of this Act and who willfully fails to file a return, or who files a fraudulent return, or who willfully attempts in any other manner to evade or defeat any tax imposed by this Act or the payment thereof, or any accountant or other agent who knowingly enters false information on the return of any taxpayer under this Act, shall, in addition to other penalties, be guilty of a Class 4 felony for the first offense and a Class 3 felony for each subsequent offense. Any person who is subject to this Act and who willfully violates any rule or regulation of the Department for the administration and enforcement of this Act or who fails to keep books and records as required in this Act is, in addition to other penalties, guilty of a Class A misdemeanor. Any person whose commercial domicile or whose residence is in this State and who is charged with a violation under this Section shall be tried in the county where his commercial domicile or his residence is located unless he asserts a right to be tried in another venue. A prosecution for any act in violation of this Section may be commenced at any time within 5 years of the commission of that act. (Source: P.A. 88-480; 88-669, eff. 11-29-94.)

Sec. 1302. Willful Failure To Pay Over.

Any person who accepts money that is due to the Department under this Act from a taxpayer for the purpose of acting as the taxpayer's agent to make the payment to the Department, but who willfully fails to remit such payment to the Department when due, shall be guilty of a Class A misdemeanor. Any such person who purports to make such payment by issuing or delivering a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository, shall be guilty of a deceptive practice in violation of Section 17-1 of the Criminal Code of 1961, as amended. Any person whose commercial domicile or whose residence is in this State and who is charged with a violation under this Section shall be tried in the county where his commercial domicile or his residence is located unless he asserts a right to be tried in another venue. A prosecution for any act in violation of this Section may be commenced at any time within 5 years of the commission of that act. (Source: P.A. 84-221.)

ARTICLE 14. MISCELLANEOUS PROVISIONS.

Sec. 1401. Promulgation Of Rules And Regulations.

(a) In general. The Department is authorized to make, promulgate and enforce such reasonable rules and regulations, and to prescribe such forms, relating to the administration and

enforcement of the provisions of this Act, as it may deem appropriate.

(b) Group administration for taxpayers that are members of a unitary business group.

(1) For taxable years ending before December 31, 1993, the Department shall make, promulgate and enforce such reasonable rules and regulations, and prescribe such forms as it may deem appropriate, to permit all of the taxpayers that are corporations (other than Subchapter S corporations) having the same taxable year and that are members of the same unitary business group to elect to be treated as one taxpayer for purposes of any original return, amended return which includes the same taxpayers of the unitary group which joined in the election to file the original return, extension, claim for refund, assessment, collection and payment and determination of the group's tax liability under this Act. For taxable years ending on or after December 31, 1987, corporate members (other than Subchapter S corporations) of the same unitary business group making an election to be treated as one taxpayer are not required to have the same taxable year. The rules, regulations and forms promulgated under this subsection (b) shall not permit the election to be made for some, but not all, of the purposes enumerated above.

(2) For taxable years ending on or after December 31, 1993, the Department shall make, promulgate and enforce such reasonable rules and regulations, and prescribe such forms as it may deem appropriate, to require all taxpayers that are corporations (other than Subchapter S corporations) and that are members of the same unitary business groups to be treated as one taxpayer for purposes of any original return, amended return, which includes the same taxpayers of the unitary group which joined in filing the original return, extension, claim for refund, assessment, collection and payment and determination of the group's tax liability under this Act.

(c) Offset among taxpayers that are members of a unitary business group. For taxable years for which returns were filed prior to the applicable date of Section 502(f), the Department shall make, promulgate and enforce such reasonable rules and regulations, and prescribe such forms as it may deem appropriate, to permit a taxpayer that is a member of a unitary business group to elect, within the applicable period of limitation as provided in Section 911, to credit any overpayment due the taxpayer for a taxable year against the liability for the same taxable year of one or more other taxpayers that are members of the same unitary business group for that taxable year, except that when an audit has been conducted by the Department, overpayments determined by the Department to be due a taxpayer may be credited against the liability of one or more other members of the same unitary group for any year within the period covered by the audit. Such regulations shall include rules which provide that the amount of the overpayment taken as a credit by a taxpayer under this Section shall be treated, for all purposes under this Act, as having been paid by such taxpayer at the time such payment was made. (Source: P.A. 88-195.)

Sec. 1402. Notice.

Whenever notice is required by this Act, such notice may, if not otherwise provided, be given or issued by mailing it by first-class mail addressed to the person concerned at his last known address. Notice to a person who is under a legal disability or deceased, shall be mailed to his last known address or, if the Department has received notice of the existence of a fiduciary for such person or his estate, to such fiduciary. (Source: P.A. 76-261.)

Sec. 1403. Substitution Of Parties.

Whenever any proceeding provided by this Act is begun before the Department, either by the Department or by a person subject to this Act, and such person thereafter dies or becomes a person under legal disability before such proceeding is concluded, the legal representative of the deceased or of the person under legal disability shall notify the Department of such death or legal disability. The legal representative, as such, shall then be substituted by the Department for such person. If the legal representative fails to notify the Department of his appointment as such legal representative, the Department may, upon its own motion, substitute such legal representative in the proceeding pending before the Department for the person who died or became under legal disability. (Source: P.A. 83-706.)

Sec. 1404. Appointment Of Secretary Of State As Agent For Service Of Process.

(a) In general. Any person who incurs tax liability under this Act, and who removes from this State or conceals his whereabouts, shall be deemed thereby to appoint the Secretary of State of Illinois his agent for service of process or notice in any judicial or administrative proceeding under this Act. Such process or notice shall be served by the

Department on the Secretary of State by leaving, at the office of the Secretary of State at least 15 days before the return day of such process or notice, a true and certified copy thereof, and by sending to the taxpayer by registered or certified mail, a like and true certified copy with an endorsement thereon of the service upon said Secretary of State, addressed to such taxpayer at his last known address.

(b) Validity. Service of process or notice in the manner and under the circumstances provided in this section, shall be of the same force and validity as if served upon the taxpayer personally within this State. Proof of such service upon the taxpayer in this State through the Secretary of State, his agent, and by mailing to the last known address of the taxpayer may be made in such judicial or administrative proceeding by the affidavit of the Director, or by his duly authorized representative who made such service, with a copy of the process or notice that was so served attached to such affidavit. (Source: P.A. 76-261.)

Sec. 1405. Transferees.

The liability of a transferee of property of a taxpayer for any tax, penalty or interest due the Department under this Act, shall be assessed, paid and collected in the same manner and subject to the same provisions as in the case of the tax to which the liability relates, except that the period of limitations for the issuance of a notice of deficiency with respect to such liability shall be as provided in Section 905 (m). The term "transferee" includes donee, heir, legatee and distributee and bulk purchasers under Section 902 (d). (Source: P.A. 84-1308.)

Sec. 1405.1. Information Reports:

(a) Rents and royalties. Any person maintaining an office or transacting business in Illinois and required under Sections 6041 and 6050N of the Internal Revenue Code of 1986 to report to the U.S. Secretary of the Treasury payments made to another person shall not also be required to file with the Department copies of those reports. The person shall maintain, in a format available for review by the Department, copies of the reports that include a payment of $1,000 or more which is, in whole or part, for one or more of the following:

(1) rents and royalties for real property located in Illinois;

(2) rents and royalties for tangible personal property if the tangible personal property was physically located in Illinois at any time during the rental period;

(3) royalties paid on a patent which is employed in production, fabrication, manufacturing, or other processing in Illinois;

(4) royalties paid on a patented product which is produced in Illinois; and

(5) royalties paid on a copyright to compensate the holder of the copyright for printing or other publication which originates in Illinois.

(b) The Department of Revenue shall obtain from the United States Agricultural Stabilization and Conservation Service and the Illinois Department of Agriculture a list of non-resident owners of record of Illinois farmland. The Department of Revenue shall utilize this list for the purpose of aiding the Department in determining the Illinois tax liability under this Act of such non-resident owners. (Source: P.A. 89-399, eff. 8-20-95.)

Sec. 1405.2. Information Reports For Payments Made Under Contracts For Personal Services:

(a) Payments made on or after January 1, 1989, under contracts for personal services. Any person maintaining an office or transacting business in Illinois shall maintain a record, in a format in which the record is available to review by the Department, of all payments made under contracts for personal services. Payments which meet all of the following criteria are considered payments made under contracts for personal services:

(1) the payment is made in the ordinary course of the trade or business of the payor;

(2) the payment is made pursuant to a written contract requiring the rendition of personal services;

(3) the sum of the payment and other payments required to be made under the contract during the same calendar year by the payor exceed $1000; and

(4) the performance of the personal services specified in the contract will necessitate the presence at sometime in Illinois of a particular individual or group of individuals; provided that no reporting will be required if there is certification that the individual or, if appropriate, group of individuals is composed solely of Illinois residents, and further provided that no reporting will be

required if there is certification that the individual or, if appropriate, group of individuals is employed by a person maintaining an office in Illinois.

(b) Information required to be maintained. The information to be maintained in a format in which the information is available for review by the Department shall specify the identifying numbers of persons receiving the payments made under the contract for personal services, the names of the persons receiving the payments, the addresses of the persons receiving the payments, and the aggregate amount of payments made to each person. The information shall also specify the identifying number, name, and address of the payor.

(c) Every person required to maintain information under subsection (a) shall furnish to each person with respect to whom the information is required a copy of the information maintained for Department inspection.

Where the payment is made to a person or persons other than the individual or group of individuals whose presence in Illinois was necessitated by the contract, the written statement furnished to the payment recipients shall state that such persons shall in turn inform the individuals whose presence in Illinois was required, or their employer if such individuals were employed, that the payment has been reported to the Department of Revenue.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the report under subsection (a) was required to be made.

(d) Penalties. Any person required to provide copies of information to persons to whom payments are made under subsection (c) of this Section who fails to do so shall be subject to the penalty prescribed by Section 3-4 of the Uniform Penalty and Interest Act. (Source: P.A. 89-399, eff. 8-20-95.)

Sec. 1405.3. Information Reports For Payments Made For Prizes And Awards.

(a) Payments made on or after January 1, 1989, for prizes or awards. Any person maintaining an office or transacting business in Illinois shall maintain a record, in a format in which the record is subject to review by the Department, of all payments, whether cash or non-cash, made as prizes or awards. Payments which meet all of the following criteria are considered payments of prizes or awards:

(1) the payment is made in the ordinary course of the trade or business of the payor,

(2) the payment is in complete or partial satisfaction of a prize or award in excess of $1000 won by a particular individual or group of individuals for themselves or their sponsors as a result of their participation and relative performance, or the participation and relative performance of an animal or motor vehicle which they own, in any contest staged wholly in Illinois provided that no reporting will be required if there is certification that the individual or group of individuals receiving the prize or award is composed solely of Illinois residents, and further provided that no reporting will be required if there is certification that the individual or group of individuals is employed by a person maintaining an office in Illinois.

(b) Information required to be maintained. The information to be maintained in a format in which the information is available for review by the Department shall specify the identifying numbers of persons receiving the prize or award, the names of the persons receiving the prize or award, the addresses of the persons receiving the prize or award, and the aggregate amount of payments or the fair market value of the non-cash prize or award received by each person. The information shall also specify the identifying number, name, and address of the payor.

(c) Every person required to maintain information under subsection (a) shall furnish to each person with respect to whom such information is required to be maintained a copy of the information maintained for Department inspection.

Where the payment is made to a person or persons other than the individual or group of individuals receiving the prize or award, the written statement furnished to the payment recipients shall state that such persons shall in turn inform the individuals receiving the prize or award, or their employer if such individuals were employed, that the payment has been reported to the Department of Revenue.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the report under subsection (a) was required to be made.

(d) Penalties. Any person required to provide copies of information to persons to whom payments are made under subsection (c) of this Section who fails to do so shall be subject to the penalty prescribed by Section 3-4 of the Uniform Penalty and Interest Act. (Source: P.A. 89-399, eff. 8-20-95.)

Sec. 1405.4. Tax Refund Inquiries; Response.

The Department of Revenue shall establish procedures to inform taxpayers of the status of their refunds and shall provide a response to each inquiry concerning refunds under this Act within 10 days after receiving the inquiry. (Source: P.A. 89-89, eff. 6-30-95.)

Sec. 1405.5. Registration of tax shelters.

(a) Federal tax shelter. Any material advisor required to make a return under Section 6111 of the Internal Revenue Code with respect to a reportable transaction shall send a duplicate of the return to the Department not later than the day on which the return is required to be filed under federal law.

(b) (Blank).

(c) Transactions subject to this Section. The provisions of this Section apply to any reportable transaction having a nexus with this State. For returns that must be filed under this Section on or after January 1, 2008, a reportable transaction has nexus with this State if, at the time the transaction is entered into, the transaction has one or more investors that is an Illinois taxpayer. For returns that must be filed under this Section prior to January 1, 2008, a tax shelter has a nexus with this State if it satisfies any of the following conditions: (1) is organized in this State; (2) is doing business in this State; or (3) is deriving income from sources in this State.

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

Sec. 1405.6. Investor lists.

(a) Federal abusive tax shelter. Any person required to maintain a list under Section 6112 of the Internal Revenue Code shall furnish a duplicate of such list to the Department not later than the earlier of the time such list is required to be furnished to the Internal Revenue Service for inspection under Section 6112 of the Internal Revenue Code or the date of written request by the Department.

(b) (Blank).

(c) Transactions subject to this Section. The provisions of this Section apply to any reportable transaction having a nexus with this State. For lists that must be filed with the Department on or after January 1, 2008, a reportable transaction has nexus with this State if, at the time the transaction is entered into, the transaction has one or more investors that is an Illinois taxpayer. For lists that must be filed with the Department prior to January 1, 2008, a reportable transaction has nexus with this State if, at the time the transaction is:

(1) Organized in this State;

(2) Doing Business in this State; or

(3) Deriving income from sources in this State. (Source: P.A. 93-840, eff. 7-30-04.)

Sec. 1406. Identifying Numbers.

(a) Supplying of identifying numbers. When required by regulations prescribed by the Department:

(1) Inclusion in returns. Any person required under this Act to make a return, statement, or other document shall include in such return, statement, or other document such identifying number as may be prescribed for securing proper identification of such person.

(2) Furnishing number to other persons. Any person with respect to whom a return, statement, or other document is required under this Act to be made by another person shall furnish to such other person such identifying number as may be prescribed for securing his proper identification.

(3) Furnishing number of another person. Any person required under this Act to make a return, statement, or other document with respect to another person shall request from such other person, and shall include in any such return, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

(b) Limitation.

(1) Except as provided in paragraph (2), a return of any person with respect to his liability for tax, or any statement or other document in support thereof, shall not be considered for purposes of paragraphs (2) and (3) of subsection (a) as a return, statement, or other document with respect to another person.

(2) For purposes of paragraphs (2) and (3) of subsection (a), a return of an estate or trust with

respect to its liability for tax, and any statement or other document in support thereof, shall be considered as a return, statement, or other document with respect to each beneficiary of such estate or trust.

(c) Requirement of information. For purposes of this section, the Department is authorized to require such information as may be necessary to assign an identifying number to any person. (Source: P.A. 76-261.)

Sec. 1407. Amounts Less Than $1.

(a) Payments, refunds, etc. The Department may by regulations provide that if a total amount of less than $1 is payable, refundable or creditable, such amount may be disregarded or, alternatively, shall be disregarded if it is less than 50 cents and shall be increased to $1 if it is 50 cents or more.

(b) Rounding. The Department may by regulations provide that any amount which is required to be shown or reported on any return or other document under this Act shall, if such amount is not a whole-dollar amount, be increased to the nearest whole-dollar amount in any case where the fractional part of a dollar is 50 cents or more, and decreased to the nearest whole-dollar amount where the fractional part of a dollar is less than 50 cents. (Source: P.A. 76-261.)

Sec. 1408. Administrative Procedure Act - Application.

Except as otherwise provided in the Illinois Independent Tax Tribunal Act of 2012, the Illinois Administrative Procedure Act is hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Revenue under this Act, except that (1) paragraph (b) of Section 5-10 of the Illinois Administrative Procedure Act does not apply to final orders, decisions and opinions of the Department, (2) subparagraph (a)2 of Section 5-10 of the Illinois Administrative Procedure Act does not apply to forms established by the Department for use under this Act, and (3) the provisions of Section 10-45 of the Illinois Administrative Procedure Act regarding proposals for decision are excluded and not applicable to the Department under this Act.

ARTICLE 15. DEFINITIONS AND RULES OF INTERPRETATION.

Sec. 1501. Definitions.

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

(1) Business income. The term "business income" means all income that may be treated as apportionable business income under the Constitution of the United States. Business income is net of the deductions allocable thereto. Such term does not include compensation or the deductions allocable thereto. For each taxable year beginning on or after January 1, 2003, a taxpayer may elect to treat all income other than compensation as business income. This election shall be made in accordance with rules adopted by the Department and, once made, shall be irrevocable.

(1.5) Captive real estate investment trust:

(A) The term "captive real estate investment trust" means a corporation, trust, or association:

(i) that is considered a real estate investment trust for the taxable year under Section 856 of the Internal Revenue Code;

(ii) the certificates of beneficial interest or shares of which are not regularly traded on an established securities market; and

(iii) of which more than 50% of the voting power or value of the beneficial interest or shares, at any time during the last half of the taxable year, is owned or controlled, directly, indirectly, or constructively, by a single corporation.

(B) The term "captive real estate investment trust" does not include:

(i) a real estate investment trust of which more than 50% of the voting power or value of the beneficial interest or shares is owned or controlled, directly, indirectly, or constructively, by:

(a) a real estate investment trust, other than a captive real estate investment trust;

(b) a person who is exempt from taxation under Section 501 of the Internal Revenue Code, and who is not required to treat income received from the real estate investment trust as unrelated business taxable income under Section 512 of the Internal Revenue Code;

(c) a listed Australian property trust, if no more than 50% of the voting power or value of the beneficial interest or shares of that trust, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single person;

(d) an entity organized as a trust, provided a listed Australian property trust described in subparagraph (c) owns or controls, directly or indirectly, or constructively, 75% or more of the voting power or value of the beneficial interests or shares of such entity; or

(e) an entity that is organized outside of the laws of the United States and that satisfies all of the following criteria:

(1) at least 75% of the entity's total asset value at the close of its taxable year is represented by real estate assets (as defined in Section 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any real estate investment trust), cash and cash equivalents, and U.S. Government securities;

(2) the entity is not subject to tax on amounts that are distributed to its beneficial owners or is exempt from entity-level taxation;

(3) the entity distributes at least 85% of its taxable income (as computed in the jurisdiction in which it is organized) to the holders of its shares or certificates of beneficial interest on an annual basis;

(4) either (i) the shares or beneficial interests of the entity are regularly traded on an established securities market or (ii) not more than 10% of the voting power or value in the entity is held, directly, indirectly, or constructively, by a single entity or individual; and

(5) the entity is organized in a country that has entered into a tax treaty with the United States; or

(ii) during its first taxable year for which it elects to be treated as a real estate investment trust under Section 856(c)(1) of the Internal Revenue Code, a real estate investment trust the certificates of beneficial interest or shares of which are not regularly traded on an established securities market, but only if the certificates of beneficial interest or shares of the real estate investment trust are regularly traded on an established securities market prior to the earlier of the due date (including extensions) for filing its return under this Act for that first taxable year or the date it actually files that return.

(C) For the purposes of this subsection (1.5), the constructive ownership rules prescribed under Section 318(a) of the Internal Revenue Code, as modified by Section 856(d)(5) of the Internal Revenue Code, apply in determining the ownership of stock, assets, or net profits of any person.

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

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

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

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

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

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

(8) Financial organization.

(A) The term "financial organization" means any bank, bank holding company, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, building and loan association, credit union, currency exchange, cooperative bank, small loan company, sales finance company, investment company, or any person which is owned by a bank or bank holding company. For the purpose of this Section a "person" will include only those persons which a bank holding company may acquire and hold an interest in, directly or indirectly, under the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.), except where interests in any person must be disposed of within certain required time limits under the Bank Holding Company Act of 1956.

(B) For purposes of subparagraph (A) of this paragraph, the term "bank" includes (i) any

entity that is regulated by the Comptroller of the Currency under the National Bank Act, or by the Federal Reserve Board, or by the Federal Deposit Insurance Corporation and (ii) any federally or State chartered bank operating as a credit card bank.

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

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

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

(b) an installment, charge, credit, or similar contract or agreement arising from the sale of tangible personal property or services in a transaction involving a deferred payment price payable in one or more installments subsequent to the sale; or

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

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

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

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

(b) more than 50% of the gross income of the corporation for the taxable year must be interest income derived from qualifying loans. A "qualifying loan" is a loan made to a member of the corporation's affiliated group that originates customer receivables (within the meaning of item (i)) or to whom customer receivables originated by a member of the affiliated group have been transferred, to the extent the average outstanding balance of loans from that corporation to members of its affiliated group during the taxable year do not exceed the limitation amount for that corporation. The "limitation amount" for a corporation is the average outstanding balances during the taxable year of customer receivables (within the meaning of item (i)) originated by all members of the affiliated group. If the average outstanding balances of the loans made by a corporation to members of its affiliated group exceed the limitation amount, the interest income of that corporation from qualifying loans shall be equal to its interest income from loans to members of its affiliated groups times a fraction equal to the limitation amount divided by the average outstanding balances of the loans made by that corporation to members of its affiliated group;

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

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

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

(D) Subparagraphs (B) and (C) of this paragraph are declaratory of existing law and apply retroactively, for all tax years beginning on or before December 31, 1996, to all original returns, to all amended returns filed no later than 30 days after the effective date of this amendatory Act of 1996, and to all notices issued on or before the effective date of this amendatory Act of 1996 under subsection (a) of Section 903, subsection (a) of Section 904, subsection (e) of Section 909, or Section 912. A taxpayer that is a "financial organization" that engages in any transaction with an affiliate shall be a "financial organization" for all purposes of this Act.

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

(F) Finance Leases. For purposes of this subsection, a finance lease shall be treated as a loan or other extension of credit, rather than as a lease, regardless of how the transaction is characterized for any other purpose, including the purposes of any regulatory agency to which the lessor is subject. A finance lease is any transaction in the form of a lease in which the lessee is treated as the owner of the leased asset entitled to any deduction for depreciation allowed under Section 167 of the Internal Revenue Code.

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

(9.5) Fixed place of business. The term "fixed place of business" has the same meaning as that term is given in Section 864 of the Internal Revenue Code and the related Treasury regulations.

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

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

(11.5) Investment partnership.

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

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

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

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

(B) For purposes of this paragraph (11.5), the term "qualifying investment securities" includes all of the following:

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

(ii) bonds, debentures, and other debt securities;

(iii) foreign and domestic currency deposits secured by federal, state, or local governmental agencies;

(iv) mortgage or asset-backed securities secured by federal, state, or local governmental agencies;

(v) repurchase agreements and loan participations;

(vi) foreign currency exchange contracts and forward and futures contracts on foreign currencies;

(vii) stock and bond index securities and futures contracts and other similar financial securities and futures contracts on those securities;

(viii) options for the purchase or sale of any of the securities, currencies, contracts, or financial instruments described in items (i) to (vii), inclusive;

(ix) regulated futures contracts;

(x) commodities (not described in Section 1221(a)(1) of the Internal Revenue Code) or futures, forwards, and options with respect to such commodities, provided, however, that any item of a physical commodity to which title is actually acquired in the partnership's capacity as a dealer in

such commodity shall not be a qualifying investment security;

(xi) derivatives; and

(xii) a partnership interest in another partnership that is an investment partnership.

(12) Mathematical error. The term "mathematical error" includes the following types of errors, omissions, or defects in a return filed by a taxpayer which prevents acceptance of the return as filed for processing:

(A) arithmetic errors or incorrect computations on the return or supporting schedules;

(B) entries on the wrong lines;

(C) omission of required supporting forms or schedules or the omission of the information in whole or in part called for thereon; and

(D) an attempt to claim, exclude, deduct, or improperly report, in a manner directly contrary to the provisions of the Act and regulations thereunder any item of income, exemption, deduction, or credit.

(13) Nonbusiness income. The term "nonbusiness income" means all income other than business income or compensation.

(14) Nonresident. The term "nonresident" means a person who is not a resident.

(15) Paid, incurred and accrued. The terms "paid", "incurred" and "accrued" shall be construed according to the method of accounting upon the basis of which the person's base income is computed under this Act.

(16) Partnership and partner. The term "partnership" includes a syndicate, group, pool, joint venture or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and the term "partner" includes a member in such syndicate, group, pool, joint venture or organization.

The term "partnership" includes any entity, including a limited liability company formed under the Illinois Limited Liability Company Act, classified as a partnership for federal income tax purposes.

The term "partnership" does not include a syndicate, group, pool, joint venture, or other unincorporated organization established for the sole purpose of playing the Illinois State Lottery.

(17) Part-year resident. The term "part-year resident" means an individual who became a resident during the taxable year or ceased to be a resident during the taxable year. Under Section 1501(a)(20)(A)(i) residence commences with presence in this State for other than a temporary or transitory purpose and ceases with absence from this State for other than a temporary or transitory purpose. Under Section 1501(a)(20)(A)(ii) residence commences with the establishment of domicile in this State and ceases with the establishment of domicile in another State.

(18) Person. The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, firm, company, corporation, limited liability company, or fiduciary. For purposes of Section 1301 and 1302 of this Act, a "person" means (i) an individual, (ii) a corporation, (iii) an officer, agent, or employee of a corporation, (iv) a member, agent or employee of a partnership, or (v) a member, manager, employee, officer, director, or agent of a limited liability company who in such capacity commits an offense specified in Section 1301 and 1302.

(18A) Records. The term "records" includes all data maintained by the taxpayer, whether on paper, microfilm, microfiche, or any type of machine-sensible data compilation.

(19) Regulations. The term "regulations" includes rules promulgated and forms prescribed by the Department.

(20) Resident. The term "resident" means:

(A) an individual (i) who is in this State for other than a temporary or transitory purpose during the taxable year; or (ii) who is domiciled in this State but is absent from the State for a temporary or transitory purpose during the taxable year;

(B) The estate of a decedent who at his or her death was domiciled in this State;

(C) A trust created by a will of a decedent who at his death was domiciled in this State; and

(D) An irrevocable trust, the grantor of which was domiciled in this State at the time such trust became irrevocable. For purpose of this subparagraph, a trust shall be considered irrevocable to the extent that the grantor is not

treated as the owner thereof under Sections 671 through 678 of the Internal Revenue Code.

(21) Sales. The term "sales" means all gross receipts of the taxpayer not allocated under Sections 301, 302 and 303.

(22) State. The term "state" when applied to a jurisdiction other than this State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or Possession of the United States, and any foreign country, or any political subdivision of any of the foregoing. For purposes of the foreign tax credit under Section 601, the term "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing, effective for tax years ending on or after December 31, 1989.

(23) Taxable year. The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the base income is computed under this Act. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of this Act, the period for which such return is made.

(24) Taxpayer. The term "taxpayer" means any person subject to the tax imposed by this Act.

(25) International banking facility. The term international banking facility shall have the same meaning as is set forth in the Illinois Banking Act or as is set forth in the laws of the United States or regulations of the Board of Governors of the Federal Reserve System.

(26) Income Tax Return Preparer.

(A) The term "income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this Act or any claim for refund of tax imposed by this Act. The preparation of a substantial portion of a return or claim for refund shall be treated as the preparation of that return or claim for refund.

(B) A person is not an income tax return preparer if all he or she does is

(i) furnish typing, reproducing, or other mechanical assistance;

(ii) prepare returns or claims for refunds for the employer by whom he or she is regularly and continuously employed;

(iii) prepare as a fiduciary returns or claims for refunds for any person; or

(iv) prepare claims for refunds for a taxpayer in response to any notice of deficiency issued to that taxpayer or in response to any waiver of restriction after the commencement of an audit of that taxpayer or of another taxpayer if a determination in the audit of the other taxpayer directly or indirectly affects the tax liability of the taxpayer whose claims he or she is preparing.

(27) Unitary business group.

(A) The term "unitary business group" means a group of persons related through common ownership whose business activities are integrated with, dependent upon and contribute to each other. The group will not include those members whose business activity outside the United States is 80% or more of any such member's total business activity; for purposes of this paragraph and clause (a)(3)(B)(ii) of Section 304, business activity within the United States shall be measured by means of the factors ordinarily applicable under subsections (a), (b), (c), (d), or (h) of Section 304 except that, in the case of members ordinarily required to apportion business income by means of the 3 factor formula of property, payroll and sales specified in subsection (a) of Section 304, including the formula as weighted in subsection (h) of Section 304, such members shall not use the sales factor in the computation and the results of the property and payroll factor computations of subsection (a) of Section 304 shall be divided by 2 (by one if either the property or payroll factor has a denominator of zero). The computation required by the preceding sentence shall, in each case, involve the division of the member's property, payroll, or revenue miles in the United States, insurance premiums on property or risk in the United States, or financial organization business income from sources within the United States, as the case may be, by the respective worldwide figures for such items. Common ownership in the case of corporations is the direct or indirect control or ownership of more than 50% of the outstanding voting stock of the persons carrying on unitary business activity. Unitary business activity can ordinarily be illustrated where the activities of the members are: (1) in the same general line (such as manufacturing, wholesaling, retailing of tangible personal property, insurance, transportation or finance); or (2) are steps in a vertically structured enterprise or process (such as the steps involved in the production of natural resources, which might include exploration, mining, refining, and

marketing); and, in either instance, the members are functionally integrated through the exercise of strong centralized management (where, for example, authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member).

(B) In no event, shall any unitary business group include members which are ordinarily required to apportion business income under different subsections of Section 304 except that for tax years ending on or after December 31, 1987 this prohibition shall not apply to a holding company that would otherwise be a member of a unitary business group with taxpayers that apportion business income under any of subsections (b), (c), (c-1), or (d) of Section 304. If a unitary business group would, but for the preceding sentence, include members that are ordinarily required to apportion business income under different subsections of Section 304, then for each subsection of Section 304 for which there are two or more members, there shall be a separate unitary business group composed of such members. For purposes of the preceding two sentences, a member is "ordinarily required to apportion business income" under a particular subsection of Section 304 if it would be required to use the apportionment method prescribed by such subsection except for the fact that it derives business income solely from Illinois. As used in this paragraph, the phrase "United States" means only the 50 states and the District of Columbia, but does not include any territory or possession of the United States or any area over which the United States has asserted jurisdiction or claimed exclusive rights with respect to the exploration for or exploitation of natural resources.

(C) Holding companies.

(i) For purposes of this subparagraph, a "holding company" is a corporation (other than a corporation that is a financial organization under paragraph (8) of this subsection (a) of Section 1501 because it is a bank holding company under the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841, et seq.) or because it is owned by a bank or a bank holding company) that owns a controlling interest in one or more other taxpayers ("controlled taxpayers"); that, during the period that includes the taxable year and the 2 immediately preceding taxable years or, if the corporation was formed during the current or immediately preceding taxable year, the taxable years in which the corporation has been in existence, derived substantially all its gross income from dividends, interest, rents, royalties, fees or other charges received from controlled taxpayers for the provision of services, and gains on the sale or other disposition of interests in controlled taxpayers or in property leased or licensed to controlled taxpayers or used by the taxpayer in providing services to controlled taxpayers; and that incurs no substantial expenses other than expenses (including interest and other costs of borrowing) incurred in connection with the acquisition and holding of interests in controlled taxpayers and in the provision of services to controlled taxpayers or in the leasing or licensing of property to controlled taxpayers.

(ii) The income of a holding company which is a member of more than one unitary business group shall be included in each unitary business group of which it is a member on a pro rata basis, by including in each unitary business group that portion of the base income of the holding company that bears the same proportion to the total base income of the holding company as the gross receipts of the unitary business group bears to the combined gross receipts of all unitary business groups (in both cases without regard to the holding company) or on any other reasonable basis, consistently applied.

(iii) A holding company shall apportion its business income under the subsection of Section 304 used by the other members of its unitary business group. The apportionment factors of a holding company which would be a member of more than one unitary business group shall be included with the apportionment factors of each unitary business group of which it is a member on a pro rata basis using the same method used in clause (ii).

(iv) The provisions of this subparagraph (C) are intended to clarify existing law.

(D) If including the base income and factors of a holding company in more than one unitary business group under subparagraph (C) does not fairly reflect the degree of integration between the holding company and one or more of the unitary business groups, the dependence of the holding company and one or more of the unitary business groups upon each other, or the contributions between the holding company and one or more of the unitary business groups, the holding company may petition the Director, under the procedures provided under Section 304(f), for permission to include all base income and factors of the holding company only with members of a

unitary business group apportioning their business income under one subsection of subsections (a), (b), (c), or (d) of Section 304. If the petition is granted, the holding company shall be included in a unitary business group only with persons apportioning their business income under the selected subsection of Section 304 until the Director grants a petition of the holding company either to be included in more than one unitary business group under subparagraph (C) or to include its base income and factors only with members of a unitary business group apportioning their business income under a different subsection of Section 304.

(E) If the unitary business group members' accounting periods differ, the common parent's accounting period or, if there is no common parent, the accounting period of the member that is expected to have, on a recurring basis, the greatest Illinois income tax liability must be used to determine whether to use the apportionment method provided in subsection (a) or subsection (h) of Section 304. The prohibition against membership in a unitary business group for taxpayers ordinarily required to apportion income under different subsections of Section 304 does not apply to taxpayers required to apportion income under subsection (a) and subsection (h) of Section 304. The provisions of this amendatory Act of 1998 apply to tax years ending on or after December 31, 1998.

(28) Subchapter S corporation. The term "Subchapter S corporation" means a corporation for which there is in effect an election under Section 1362 of the Internal Revenue Code, or for which there is a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982.

(30) Foreign person. The term "foreign person" means any person who is a nonresident alien individual and any nonindividual entity, regardless of where created or organized, whose business activity outside the United States is 80% or more of the entity's total business activity.

(b) Other definitions.

(1) Words denoting number, gender, and so forth, when used in this Act, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof:

(A) Words importing the singular include and apply to several persons, parties or things;

(B) Words importing the plural include the singular; and

(C) Words importing the masculine gender include the feminine as well.

(2) "Company" or "association" as including successors and assigns. The word "company" or "association", when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company or association", and in like manner as if these last-named words, or words of similar import, were expressed.

(3) Other terms. Any term used in any Section of this Act with respect to the application of, or in connection with, the provisions of any other Section of this Act shall have the same meaning as in such other Section. (Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08.)

Sec. 1502. Arrangement And Captions.

No inference, implication, or presumption of legislative construction shall be drawn or made by reason of the location or grouping of any particular Section or provision of this Act, nor shall any caption be given any legal effect. (Source: P.A. 76-261.)

ARTICLE 16. SEVERABILITY.

Sec. 1601. Severability.

Any clause, sentence, section, provision or part of this Act or the application thereof to any person or circumstance shall be adjudged to be unconstitutional, the remainder of this Act or its application to persons or circumstances other than those to which it is held invalid, shall not be affected thereby. (Source: P.A. 76-261.)

ARTICLE 17. EFFECTIVE DATE

Sec. 1701. Effective Date.

This Act shall take effect August 1, 1969. (Source: P.A. 76-261.)