

1 AMENDMENT TO SENATE BILL 1176

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1176, AS AMENDED,  
3 by replacing Section 10 of the bill with the following:

4 "Section 10. The Illinois Income Tax Act is amended by  
5 changing Sections 201, 202, 203, 209, 502, 506, 601.1, 701,  
6 905, 911, and 1501 and by adding Section 911.2 as follows:

7 (35 ILCS 5/201) (from Ch. 120, par. 2-201)

8 Sec. 201. Tax Imposed.

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

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

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

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

8           (3) In the case of an individual, trust or estate,  
9 for taxable years beginning after June 30, 1989, an  
10 amount equal to 3% of the taxpayer's net income for the  
11 taxable year.

12           (4) (Blank).

13           (5) (Blank).

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

17           (7) In the case of a corporation, for taxable years  
18 beginning prior to July 1, 1989 and ending after June 30,  
19 1989, an amount equal to the sum of (i) 4% of the  
20 taxpayer's net income for the period prior to July 1,  
21 1989, as calculated under Section 202.3, and (ii) 4.8% of  
22 the taxpayer's net income for the period after June 30,  
23 1989, as calculated under Section 202.3.

24           (8) In the case of a corporation, for taxable years  
25 beginning after June 30, 1989, an amount equal to 4.8% of  
26 the taxpayer's net income for the taxable year.

27           (c) Beginning on July 1, 1979 and thereafter, in  
28 addition to such income tax, there is also hereby imposed the  
29 Personal Property Tax Replacement Income Tax measured by net  
30 income on every corporation (including Subchapter S  
31 corporations), partnership and trust, for each taxable year  
32 ending after June 30, 1979. Such taxes are imposed on the  
33 privilege of earning or receiving income in or as a resident  
34 of this State. The Personal Property Tax Replacement Income

1 Tax shall be in addition to the income tax imposed by  
2 subsections (a) and (b) of this Section and in addition to  
3 all other occupation or privilege taxes imposed by this State  
4 or by any municipal corporation or political subdivision  
5 thereof.

6 (d) Additional Personal Property Tax Replacement Income  
7 Tax Rates. The personal property tax replacement income tax  
8 imposed by this subsection and subsection (c) of this Section  
9 in the case of a corporation, other than a Subchapter S  
10 corporation and except as adjusted by subsection (d-1), shall  
11 be an additional amount equal to 2.85% of such taxpayer's net  
12 income for the taxable year, except that beginning on January  
13 1, 1981, and thereafter, the rate of 2.85% specified in this  
14 subsection shall be reduced to 2.5%, and in the case of a  
15 partnership, trust or a Subchapter S corporation shall be an  
16 additional amount equal to 1.5% of such taxpayer's net income  
17 for the taxable year.

18 (d-1) Rate reduction for certain foreign insurers. In  
19 the case of a foreign insurer, as defined by Section 35A-5 of  
20 the Illinois Insurance Code, whose state or country of  
21 domicile imposes on insurers domiciled in Illinois a  
22 retaliatory tax (excluding any insurer whose premiums from  
23 reinsurance assumed are 50% or more of its total insurance  
24 premiums as determined under paragraph (2) of subsection (b)  
25 of Section 304, except that for purposes of this  
26 determination premiums from reinsurance do not include  
27 premiums from inter-affiliate reinsurance arrangements),  
28 beginning with taxable years ending on or after December 31,  
29 1999, the sum of the rates of tax imposed by subsections (b)  
30 and (d) shall be reduced (but not increased) to the rate at  
31 which the total amount of tax imposed under this Act, net of  
32 all credits allowed under this Act, shall equal (i) the total  
33 amount of tax that would be imposed on the foreign insurer's  
34 net income allocable to Illinois for the taxable year by such

1 foreign insurer's state or country of domicile if that net  
2 income were subject to all income taxes and taxes measured by  
3 net income imposed by such foreign insurer's state or country  
4 of domicile, net of all credits allowed or (ii) a rate of  
5 zero if no such tax is imposed on such income by the foreign  
6 insurer's state of domicile. For the purposes of this  
7 subsection (d-1), an inter-affiliate includes a mutual  
8 insurer under common management.

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

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

16 (B) the privilege tax imposed by Section 409  
17 of the Illinois Insurance Code, the fire insurance  
18 company tax imposed by Section 12 of the Fire  
19 Investigation Act, and the fire department taxes  
20 imposed under Section 11-10-1 of the Illinois  
21 Municipal Code,

22 equals 1.25% of the net taxable premiums written for the  
23 taxable year, as described by subsection (1) of Section  
24 409 of the Illinois Insurance Code. This paragraph will  
25 in no event increase the rates imposed under subsections  
26 (b) and (d).

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

34 This subsection (d-1) is exempt from the provisions of

1 Section 250.

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

5 (1) A taxpayer shall be allowed a credit equal to  
6 .5% of the basis of qualified property placed in service  
7 during the taxable year, provided such property is placed  
8 in service on or after July 1, 1984. There shall be  
9 allowed an additional credit equal to .5% of the basis of  
10 qualified property placed in service during the taxable  
11 year, provided such property is placed in service on or  
12 after July 1, 1986, and the taxpayer's base employment  
13 within Illinois has increased by 1% or more over the  
14 preceding year as determined by the taxpayer's employment  
15 records filed with the Illinois Department of Employment  
16 Security. Taxpayers who are new to Illinois shall be  
17 deemed to have met the 1% growth in base employment for  
18 the first year in which they file employment records with  
19 the Illinois Department of Employment Security. The  
20 provisions added to this Section by Public Act 85-1200  
21 (and restored by Public Act 87-895) shall be construed as  
22 declaratory of existing law and not as a new enactment.  
23 If, in any year, the increase in base employment within  
24 Illinois over the preceding year is less than 1%, the  
25 additional credit shall be limited to that percentage  
26 times a fraction, the numerator of which is .5% and the  
27 denominator of which is 1%, but shall not exceed .5%.  
28 The investment credit shall not be allowed to the extent  
29 that it would reduce a taxpayer's liability in any tax  
30 year below zero, nor may any credit for qualified  
31 property be allowed for any year other than the year in  
32 which the property was placed in service in Illinois. For  
33 tax years ending on or after December 31, 1987, and on or  
34 before December 31, 1988, the credit shall be allowed for

1 the tax year in which the property is placed in service,  
2 or, if the amount of the credit exceeds the tax liability  
3 for that year, whether it exceeds the original liability  
4 or the liability as later amended, such excess may be  
5 carried forward and applied to the tax liability of the 5  
6 taxable years following the excess credit years if the  
7 taxpayer (i) makes investments which cause the creation  
8 of a minimum of 2,000 full-time equivalent jobs in  
9 Illinois, (ii) is located in an enterprise zone  
10 established pursuant to the Illinois Enterprise Zone Act  
11 and (iii) is certified by the Department of Commerce and  
12 Community Affairs as complying with the requirements  
13 specified in clause (i) and (ii) by July 1, 1986. The  
14 Department of Commerce and Community Affairs shall notify  
15 the Department of Revenue of all such certifications  
16 immediately. For tax years ending after December 31,  
17 1988, the credit shall be allowed for the tax year in  
18 which the property is placed in service, or, if the  
19 amount of the credit exceeds the tax liability for that  
20 year, whether it exceeds the original liability or the  
21 liability as later amended, such excess may be carried  
22 forward and applied to the tax liability of the 5 taxable  
23 years following the excess credit years. The credit shall  
24 be applied to the earliest year for which there is a  
25 liability. If there is credit from more than one tax year  
26 that is available to offset a liability, earlier credit  
27 shall be applied first.

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

30 (A) is tangible, whether new or used,  
31 including buildings and structural components of  
32 buildings and signs that are real property, but not  
33 including land or improvements to real property that  
34 are not a structural component of a building such as

1           landscaping, sewer lines, local access roads,  
2           fencing, parking lots, and other appurtenances;

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

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

10          (D) is used in Illinois by a taxpayer who is  
11          primarily engaged in manufacturing, or in mining  
12          coal or fluorite, or in retailing; and

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

17          (3) For purposes of this subsection (e),  
18          "manufacturing" means the material staging and production  
19          of tangible personal property by procedures commonly  
20          regarded as manufacturing, processing, fabrication, or  
21          assembling which changes some existing material into new  
22          shapes, new qualities, or new combinations. For purposes  
23          of this subsection (e) the term "mining" shall have the  
24          same meaning as the term "mining" in Section 613(c) of  
25          the Internal Revenue Code. For purposes of this  
26          subsection (e), the term "retailing" means the sale of  
27          tangible personal property or services rendered in  
28          conjunction with the sale of tangible consumer goods or  
29          commodities.

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

33          (5) If the basis of the property for federal income  
34          tax depreciation purposes is increased after it has been

1 placed in service in Illinois by the taxpayer, the amount  
2 of such increase shall be deemed property placed in  
3 service on the date of such increase in basis.

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

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

24 (8) Unless the investment credit is extended by  
25 law, the basis of qualified property shall not include  
26 costs incurred after December 31, 2003, except for costs  
27 incurred pursuant to a binding contract entered into on  
28 or before December 31, 2003.

29 (9) Each taxable year ending before December 31,  
30 2000, a partnership may elect to pass through to its  
31 partners the credits to which the partnership is entitled  
32 under this subsection (e) for the taxable year. A  
33 partner may use the credit allocated to him or her under  
34 this paragraph only against the tax imposed in



1 subsections (c) and (d) of this Section. If the  
2 partnership makes that election, those credits shall be  
3 allocated among the partners in the partnership in  
4 accordance with the rules set forth in Section 704(b) of  
5 the Internal Revenue Code, and the rules promulgated  
6 under that Section, and the allocated amount of the  
7 credits shall be allowed to the partners for that taxable  
8 year. The partnership shall make this election on its  
9 Personal Property Tax Replacement Income Tax return for  
10 that taxable year. The election to pass through the  
11 credits shall be irrevocable.

12 For taxable years ending on or after December 31,  
13 2000, a partner that qualifies its partnership for a  
14 subtraction under subparagraph (I) of paragraph (2) of  
15 subsection (d) of Section 203 or a shareholder that  
16 qualifies a Subchapter S corporation for a subtraction  
17 under subparagraph (S) of paragraph (2) of subsection (b)  
18 of Section 203 shall be allowed a credit under this  
19 subsection (e) equal to its share of the credit earned  
20 under this subsection (e) during the taxable year by the  
21 partnership or Subchapter S corporation, determined in  
22 accordance with the determination of income and  
23 distributive share of income under Sections 702 and 704  
24 and Subchapter S of the Internal Revenue Code. This  
25 paragraph is exempt from the provisions of Section 250.

26 (f) Investment credit; Enterprise Zone.

27 (1) A taxpayer shall be allowed a credit against  
28 the tax imposed by subsections (a) and (b) of this  
29 Section for investment in qualified property which is  
30 placed in service in an Enterprise Zone created pursuant  
31 to the Illinois Enterprise Zone Act. For partners,  
32 shareholders of Subchapter S corporations, and owners of  
33 limited liability companies, if the liability company is  
34 treated as a partnership for purposes of federal and

1 State income taxation, there shall be allowed a credit  
2 under this subsection (f) to be determined in accordance  
3 with the determination of income and distributive share  
4 of income under Sections 702 and 704 and Subchapter S of  
5 the Internal Revenue Code. The credit shall be .5% of the  
6 basis for such property. The credit shall be available  
7 only in the taxable year in which the property is placed  
8 in service in the Enterprise Zone and shall not be  
9 allowed to the extent that it would reduce a taxpayer's  
10 liability for the tax imposed by subsections (a) and (b)  
11 of this Section to below zero. For tax years ending on or  
12 after December 31, 1985, the credit shall be allowed for  
13 the tax year in which the property is placed in service,  
14 or, if the amount of the credit exceeds the tax liability  
15 for that year, whether it exceeds the original liability  
16 or the liability as later amended, such excess may be  
17 carried forward and applied to the tax liability of the 5  
18 taxable years following the excess credit year. The  
19 credit shall be applied to the earliest year for which  
20 there is a liability. If there is credit from more than  
21 one tax year that is available to offset a liability, the  
22 credit accruing first in time shall be applied first.

23 (2) The term qualified property means property  
24 which:

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

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

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

1 (D) is used in the Enterprise Zone by the  
2 taxpayer; and

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

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

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

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

18 (6) If during any taxable year, any property ceases  
19 to be qualified property in the hands of the taxpayer  
20 within 48 months after being placed in service, or the  
21 situs of any qualified property is moved outside the  
22 Enterprise Zone within 48 months after being placed in  
23 service, the tax imposed under subsections (a) and (b) of  
24 this Section for such taxable year shall be increased.  
25 Such increase shall be determined by (i) recomputing the  
26 investment credit which would have been allowed for the  
27 year in which credit for such property was originally  
28 allowed by eliminating such property from such  
29 computation, and (ii) subtracting such recomputed credit  
30 from the amount of credit previously allowed. For the  
31 purposes of this paragraph (6), a reduction of the basis  
32 of qualified property resulting from a redetermination of  
33 the purchase price shall be deemed a disposition of  
34 qualified property to the extent of such reduction.

1           (g) Jobs Tax Credit; Enterprise Zone and Foreign Trade  
2 Zone or Sub-Zone.

3           (1) A taxpayer conducting a trade or business in an  
4 enterprise zone or a High Impact Business designated by  
5 the Department of Commerce and Community Affairs  
6 conducting a trade or business in a federally designated  
7 Foreign Trade Zone or Sub-Zone shall be allowed a credit  
8 against the tax imposed by subsections (a) and (b) of  
9 this Section in the amount of \$500 per eligible employee  
10 hired to work in the zone during the taxable year.

11           (2) To qualify for the credit:

12           (A) the taxpayer must hire 5 or more eligible  
13 employees to work in an enterprise zone or federally  
14 designated Foreign Trade Zone or Sub-Zone during the  
15 taxable year;

16           (B) the taxpayer's total employment within the  
17 enterprise zone or federally designated Foreign  
18 Trade Zone or Sub-Zone must increase by 5 or more  
19 full-time employees beyond the total employed in  
20 that zone at the end of the previous tax year for  
21 which a jobs tax credit under this Section was  
22 taken, or beyond the total employed by the taxpayer  
23 as of December 31, 1985, whichever is later; and

24           (C) the eligible employees must be employed  
25 180 consecutive days in order to be deemed hired for  
26 purposes of this subsection.

27           (3) An "eligible employee" means an employee who  
28 is:

29           (A) Certified by the Department of Commerce  
30 and Community Affairs as "eligible for services"  
31 pursuant to regulations promulgated in accordance  
32 with Title II of the Job Training Partnership Act,  
33 Training Services for the Disadvantaged or Title III  
34 of the Job Training Partnership Act, Employment and

1 Training Assistance for Dislocated Workers Program.

2 (B) Hired after the enterprise zone or  
3 federally designated Foreign Trade Zone or Sub-Zone  
4 was designated or the trade or business was located  
5 in that zone, whichever is later.

6 (C) Employed in the enterprise zone or Foreign  
7 Trade Zone or Sub-Zone. An employee is employed in  
8 an enterprise zone or federally designated Foreign  
9 Trade Zone or Sub-Zone if his services are rendered  
10 there or it is the base of operations for the  
11 services performed.

12 (D) A full-time employee working 30 or more  
13 hours per week.

14 (4) For tax years ending on or after December 31,  
15 1985 and prior to December 31, 1988, the credit shall be  
16 allowed for the tax year in which the eligible employees  
17 are hired. For tax years ending on or after December 31,  
18 1988, the credit shall be allowed for the tax year  
19 immediately following the tax year in which the eligible  
20 employees are hired. If the amount of the credit exceeds  
21 the tax liability for that year, whether it exceeds the  
22 original liability or the liability as later amended,  
23 such excess may be carried forward and applied to the tax  
24 liability of the 5 taxable years following the excess  
25 credit year. The credit shall be applied to the earliest  
26 year for which there is a liability. If there is credit  
27 from more than one tax year that is available to offset a  
28 liability, earlier credit shall be applied first.

29 (5) The Department of Revenue shall promulgate such  
30 rules and regulations as may be deemed necessary to carry  
31 out the purposes of this subsection (g).

32 (6) The credit shall be available for eligible  
33 employees hired on or after January 1, 1986.

34 (h) Investment credit; High Impact Business.

1           (1) Subject to subsection (b) of Section 5.5 of the  
2 Illinois Enterprise Zone Act, a taxpayer shall be allowed  
3 a credit against the tax imposed by subsections (a) and  
4 (b) of this Section for investment in qualified property  
5 which is placed in service by a Department of Commerce  
6 and Community Affairs designated High Impact Business.  
7 The credit shall be .5% of the basis for such property.  
8 The credit shall not be available until the minimum  
9 investments in qualified property set forth in Section  
10 5.5 of the Illinois Enterprise Zone Act have been  
11 satisfied and shall not be allowed to the extent that it  
12 would reduce a taxpayer's liability for the tax imposed  
13 by subsections (a) and (b) of this Section to below zero.  
14 The credit applicable to such minimum investments shall  
15 be taken in the taxable year in which such minimum  
16 investments have been completed. The credit for  
17 additional investments beyond the minimum investment by a  
18 designated high impact business shall be available only  
19 in the taxable year in which the property is placed in  
20 service and shall not be allowed to the extent that it  
21 would reduce a taxpayer's liability for the tax imposed  
22 by subsections (a) and (b) of this Section to below zero.  
23 For tax years ending on or after December 31, 1987, the  
24 credit shall be allowed for the tax year in which the  
25 property is placed in service, or, if the amount of the  
26 credit exceeds the tax liability for that year, whether  
27 it exceeds the original liability or the liability as  
28 later amended, such excess may be carried forward and  
29 applied to the tax liability of the 5 taxable years  
30 following the excess credit year. The credit shall be  
31 applied to the earliest year for which there is a  
32 liability. If there is credit from more than one tax  
33 year that is available to offset a liability, the credit  
34 accruing first in time shall be applied first.

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

4 (2) The term qualified property means property  
5 which:

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

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

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

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

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

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

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

31 (6) If during any taxable year ending on or before  
32 December 31, 1996, any property ceases to be qualified  
33 property in the hands of the taxpayer within 48 months  
34 after being placed in service, or the situs of any

1 qualified property is moved outside Illinois within 48  
2 months after being placed in service, the tax imposed  
3 under subsections (a) and (b) of this Section for such  
4 taxable year shall be increased. Such increase shall be  
5 determined by (i) recomputing the investment credit which  
6 would have been allowed for the year in which credit for  
7 such property was originally allowed by eliminating such  
8 property from such computation, and (ii) subtracting such  
9 recomputed credit from the amount of credit previously  
10 allowed. For the purposes of this paragraph (6), a  
11 reduction of the basis of qualified property resulting  
12 from a redetermination of the purchase price shall be  
13 deemed a disposition of qualified property to the extent  
14 of such reduction.

15 (7) Beginning with tax years ending after December  
16 31, 1996, if a taxpayer qualifies for the credit under  
17 this subsection (h) and thereby is granted a tax  
18 abatement and the taxpayer relocates its entire facility  
19 in violation of the explicit terms and length of the  
20 contract under Section 18-183 of the Property Tax Code,  
21 the tax imposed under subsections (a) and (b) of this  
22 Section shall be increased for the taxable year in which  
23 the taxpayer relocated its facility by an amount equal to  
24 the amount of credit received by the taxpayer under this  
25 subsection (h).

26 (i) A credit shall be allowed against the tax imposed by  
27 subsections (a) and (b) of this Section for the tax imposed  
28 by subsections (c) and (d) of this Section. This credit  
29 shall be computed by multiplying the tax imposed by  
30 subsections (c) and (d) of this Section by a fraction, the  
31 numerator of which is base income allocable to Illinois and  
32 the denominator of which is Illinois base income, and further  
33 multiplying the product by the tax rate imposed by  
34 subsections (a) and (b) of this Section.



1 Any credit earned on or after December 31, 1986 under  
2 this subsection which is unused in the year the credit is  
3 computed because it exceeds the tax liability imposed by  
4 subsections (a) and (b) for that year (whether it exceeds the  
5 original liability or the liability as later amended) may be  
6 carried forward and applied to the tax liability imposed by  
7 subsections (a) and (b) of the 5 taxable years following the  
8 excess credit year. This credit shall be applied first to  
9 the earliest year for which there is a liability. If there  
10 is a credit under this subsection from more than one tax year  
11 that is available to offset a liability the earliest credit  
12 arising under this subsection shall be applied first.

13 If, during any taxable year ending on or after December  
14 31, 1986, the tax imposed by subsections (c) and (d) of this  
15 Section for which a taxpayer has claimed a credit under this  
16 subsection (i) is reduced, the amount of credit for such tax  
17 shall also be reduced. Such reduction shall be determined by  
18 recomputing the credit to take into account the reduced tax  
19 imposed by subsection (c) and (d). If any portion of the  
20 reduced amount of credit has been carried to a different  
21 taxable year, an amended return shall be filed for such  
22 taxable year to reduce the amount of credit claimed.

23 (j) Training expense credit. Beginning with tax years  
24 ending on or after December 31, 1986, a taxpayer shall be  
25 allowed a credit against the tax imposed by subsection (a)  
26 and (b) under this Section for all amounts paid or accrued,  
27 on behalf of all persons employed by the taxpayer in Illinois  
28 or Illinois residents employed outside of Illinois by a  
29 taxpayer, for educational or vocational training in  
30 semi-technical or technical fields or semi-skilled or skilled  
31 fields, which were deducted from gross income in the  
32 computation of taxable income. The credit against the tax  
33 imposed by subsections (a) and (b) shall be 1.6% of such  
34 training expenses. For partners, shareholders of subchapter

1 S corporations, and owners of limited liability companies, if  
2 the liability company is treated as a partnership for  
3 purposes of federal and State income taxation, there shall be  
4 allowed a credit under this subsection (j) to be determined  
5 in accordance with the determination of income and  
6 distributive share of income under Sections 702 and 704 and  
7 subchapter S of the Internal Revenue Code.

8 Any credit allowed under this subsection which is unused  
9 in the year the credit is earned may be carried forward to  
10 each of the 5 taxable years following the year for which the  
11 credit is first computed until it is used. This credit shall  
12 be applied first to the earliest year for which there is a  
13 liability. If there is a credit under this subsection from  
14 more than one tax year that is available to offset a  
15 liability the earliest credit arising under this subsection  
16 shall be applied first.

17 (k) Research and development credit.

18 Beginning with tax years ending after July 1, 1990, a  
19 taxpayer shall be allowed a credit against the tax imposed by  
20 subsections (a) and (b) of this Section for increasing  
21 research activities in this State. The credit allowed  
22 against the tax imposed by subsections (a) and (b) shall be  
23 equal to 6 1/2% of the qualifying expenditures for increasing  
24 research activities in this State. For partners, shareholders  
25 of subchapter S corporations, and owners of limited liability  
26 companies, if the liability company is treated as a  
27 partnership for purposes of federal and State income  
28 taxation, there shall be allowed a credit under this  
29 subsection to be determined in accordance with the  
30 determination of income and distributive share of income  
31 under Sections 702 and 704 and subchapter S of the Internal  
32 Revenue Code.

33 For purposes of this subsection, "qualifying  
34 expenditures" means the qualifying expenditures as defined

1 for the federal credit for increasing research activities  
2 which would be allowable under Section 41 of the Internal  
3 Revenue Code and which are conducted in this State,  
4 "qualifying expenditures for increasing research activities  
5 in this State" means the excess of qualifying expenditures  
6 for the taxable year in which incurred over qualifying  
7 expenditures for the base period, "qualifying expenditures  
8 for the base period" means the average of the qualifying  
9 expenditures for each year in the base period, and "base  
10 period" means the 3 taxable years immediately preceding the  
11 taxable year for which the determination is being made.

12 Any credit in excess of the tax liability for the taxable  
13 year may be carried forward. A taxpayer may elect to have the  
14 unused credit shown on its final completed return carried  
15 over as a credit against the tax liability for the following  
16 5 taxable years or until it has been fully used, whichever  
17 occurs first.

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

30 Unless extended by law, the credit shall not include  
31 costs incurred after December 31, 2004, except for costs  
32 incurred pursuant to a binding contract entered into on or  
33 before December 31, 2004.

34 No inference shall be drawn from this amendatory Act of

1 the 91st General Assembly in construing this Section for  
2 taxable years beginning before January 1, 1999.

3 (1) Environmental Remediation Tax Credit.

4 (i) For tax years ending after December 31, 1997  
5 and on or before December 31, 2001, a taxpayer shall be  
6 allowed a credit against the tax imposed by subsections  
7 (a) and (b) of this Section for certain amounts paid for  
8 unreimbursed eligible remediation costs, as specified in  
9 this subsection. For purposes of this Section,  
10 "unreimbursed eligible remediation costs" means costs  
11 approved by the Illinois Environmental Protection Agency  
12 ("Agency") under Section 58.14 of the Environmental  
13 Protection Act that were paid in performing environmental  
14 remediation at a site for which a No Further Remediation  
15 Letter was issued by the Agency and recorded under  
16 Section 58.10 of the Environmental Protection Act. The  
17 credit must be claimed for the taxable year in which  
18 Agency approval of the eligible remediation costs is  
19 granted. The credit is not available to any taxpayer if  
20 the taxpayer or any related party caused or contributed  
21 to, in any material respect, a release of regulated  
22 substances on, in, or under the site that was identified  
23 and addressed by the remedial action pursuant to the Site  
24 Remediation Program of the Environmental Protection Act.  
25 After the Pollution Control Board rules are adopted  
26 pursuant to the Illinois Administrative Procedure Act for  
27 the administration and enforcement of Section 58.9 of the  
28 Environmental Protection Act, determinations as to credit  
29 availability for purposes of this Section shall be made  
30 consistent with those rules. For purposes of this  
31 Section, "taxpayer" includes a person whose tax  
32 attributes the taxpayer has succeeded to under Section  
33 381 of the Internal Revenue Code and "related party"  
34 includes the persons disallowed a deduction for losses by

1 paragraphs (b), (c), and (f)(1) of Section 267 of the  
2 Internal Revenue Code by virtue of being a related  
3 taxpayer, as well as any of its partners. The credit  
4 allowed against the tax imposed by subsections (a) and  
5 (b) shall be equal to 25% of the unreimbursed eligible  
6 remediation costs in excess of \$100,000 per site, except  
7 that the \$100,000 threshold shall not apply to any site  
8 contained in an enterprise zone as determined by the  
9 Department of Commerce and Community Affairs. The total  
10 credit allowed shall not exceed \$40,000 per year with a  
11 maximum total of \$150,000 per site. For partners and  
12 shareholders of subchapter S corporations, there shall be  
13 allowed a credit under this subsection to be determined  
14 in accordance with the determination of income and  
15 distributive share of income under Sections 702 and 704  
16 and of subchapter S of the Internal Revenue Code.

17 (ii) A credit allowed under this subsection that is  
18 unused in the year the credit is earned may be carried  
19 forward to each of the 5 taxable years following the year  
20 for which the credit is first earned until it is used.  
21 The term "unused credit" does not include any amounts of  
22 unreimbursed eligible remediation costs in excess of the  
23 maximum credit per site authorized under paragraph (i).  
24 This credit shall be applied first to the earliest year  
25 for which there is a liability. If there is a credit  
26 under this subsection from more than one tax year that is  
27 available to offset a liability, the earliest credit  
28 arising under this subsection shall be applied first. A  
29 credit allowed under this subsection may be sold to a  
30 buyer as part of a sale of all or part of the remediation  
31 site for which the credit was granted. The purchaser of  
32 a remediation site and the tax credit shall succeed to  
33 the unused credit and remaining carry-forward period of  
34 the seller. To perfect the transfer, the assignor shall

1 record the transfer in the chain of title for the site  
2 and provide written notice to the Director of the  
3 Illinois Department of Revenue of the assignor's intent  
4 to sell the remediation site and the amount of the tax  
5 credit to be transferred as a portion of the sale. In no  
6 event may a credit be transferred to any taxpayer if the  
7 taxpayer or a related party would not be eligible under  
8 the provisions of subsection (i).

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

12 (m) Education expense credit.

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

25 For purposes of this subsection;

26 "Qualifying pupils" means individuals who (i) are  
27 residents of the State of Illinois, (ii) are under the age of  
28 21 at the close of the school year for which a credit is  
29 sought, and (iii) during the school year for which a credit  
30 is sought were full-time pupils enrolled in a kindergarten  
31 through twelfth grade education program at any school, as  
32 defined in this subsection.

33 "Qualified education expense" means the amount incurred  
34 on behalf of a qualifying pupil in excess of \$250 for

1 tuition, book fees, and lab fees at the school in which the  
2 pupil is enrolled during the regular school year.

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

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

13 (Source: P.A. 90-123, eff. 7-21-97; 90-458, eff. 8-17-97;  
14 90-605, eff. 6-30-98; 90-655, eff. 7-30-98; 90-717, eff.  
15 8-7-98; 90-792, eff. 1-1-99; 91-9, eff. 1-1-00; 91-357, eff.  
16 7-29-99; 91-643, eff. 8-20-99; 91-644, eff. 8-20-99; 91-860,  
17 eff. 6-22-00; 91-913, eff. 1-1-01; revised 10-24-00.)

18 (35 ILCS 5/202) (from Ch. 120, par. 2-202)

19 Sec. 202. Net Income Defined. In general. For purposes of  
20 this Act, a taxpayer's net income for a taxable year shall be  
21 that portion of his base income for such year ~~except--money~~  
22 ~~and--other--benefits,--other--than--salary,--received--by--a--driver~~  
23 ~~in--a--ridesharing--arrangement--using--a--motor--vehicle,~~ which is  
24 allocable to this State under the provisions of Article 3,  
25 less the standard exemption allowed by Section 204 and the  
26 deduction allowed by Section 207.

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

28 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

29 Sec. 203. Base income defined.

30 (a) Individuals.

31 (1) In general. In the case of an individual, base  
32 income means an amount equal to the taxpayer's adjusted

1 gross income for the taxable year as modified by  
2 paragraph (2).

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

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

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

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

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

34 (D-5) An amount, to the extent not included in



1 adjusted gross income, equal to the amount of money  
2 withdrawn by the taxpayer in the taxable year from a  
3 medical care savings account and the interest earned  
4 on the account in the taxable year of a withdrawal  
5 pursuant to subsection (b) of Section 20 of the  
6 Medical Care Savings Account Act or subsection (b)  
7 of Section 20 of the Medical Care Savings Account  
8 Act of 2000; and

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

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

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

30 (F) An amount equal to all amounts included in  
31 such total pursuant to the provisions of Sections  
32 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and  
33 408 of the Internal Revenue Code, or included in  
34 such total as distributions under the provisions of

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

7 (G) The valuation limitation amount;

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

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

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

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

33 (L) For taxable years ending after December  
34 31, 1983, an amount equal to all social security

1 benefits and railroad retirement benefits included  
2 in such total pursuant to Sections 72(r) and 86 of  
3 the Internal Revenue Code;

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

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

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

31 (P) An amount equal to the amount of the  
32 deduction used to compute the federal income tax  
33 credit for restoration of substantial amounts held  
34 under claim of right for the taxable year pursuant

1 to Section 1341 of the Internal Revenue Code of  
2 1986;

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

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

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

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

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

1           (V) Beginning with tax years ending on or  
2 after December 31, 1995 and ending with tax years  
3 ending on or before December 31, 2004, an amount  
4 equal to the amount paid by a taxpayer who is a  
5 self-employed taxpayer, a partner of a partnership,  
6 or a shareholder in a Subchapter S corporation for  
7 health insurance or long-term care insurance for  
8 that taxpayer or that taxpayer's spouse or  
9 dependents, to the extent that the amount paid for  
10 that health insurance or long-term care insurance  
11 may be deducted under Section 213 of the Internal  
12 Revenue Code of 1986, has not been deducted on the  
13 federal income tax return of the taxpayer, and does  
14 not exceed the taxable income attributable to that  
15 taxpayer's income, self-employment income, or  
16 Subchapter S corporation income; except that no  
17 deduction shall be allowed under this item (V) if  
18 the taxpayer is eligible to participate in any  
19 health insurance or long-term care insurance plan of  
20 an employer of the taxpayer or the taxpayer's  
21 spouse. The amount of the health insurance and  
22 long-term care insurance subtracted under this item  
23 (V) shall be determined by multiplying total health  
24 insurance and long-term care insurance premiums paid  
25 by the taxpayer times a number that represents the  
26 fractional percentage of eligible medical expenses  
27 under Section 213 of the Internal Revenue Code of  
28 1986 not actually deducted on the taxpayer's federal  
29 income tax return;

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

1 Section 250; and

2 (X) For taxable year 1999 and thereafter, an  
3 amount equal to the amount of any (i) distributions,  
4 to the extent includible in gross income for federal  
5 income tax purposes, made to the taxpayer because of  
6 his or her status as a victim of persecution for  
7 racial or religious reasons by Nazi Germany or any  
8 other Axis regime or as an heir of the victim and  
9 (ii) items of income, to the extent includible in  
10 gross income for federal income tax purposes,  
11 attributable to, derived from or in any way related  
12 to assets stolen from, hidden from, or otherwise  
13 lost to a victim of persecution for racial or  
14 religious reasons by Nazi Germany or any other Axis  
15 regime immediately prior to, during, and immediately  
16 after World War II, including, but not limited to,  
17 interest on the proceeds receivable as insurance  
18 under policies issued to a victim of persecution for  
19 racial or religious reasons by Nazi Germany or any  
20 other Axis regime by European insurance companies  
21 immediately prior to and during World War II;  
22 provided, however, this subtraction from federal  
23 adjusted gross income does not apply to assets  
24 acquired with such assets or with the proceeds from  
25 the sale of such assets; provided, further, this  
26 paragraph shall only apply to a taxpayer who was the  
27 first recipient of such assets after their recovery  
28 and who is a victim of persecution for racial or  
29 religious reasons by Nazi Germany or any other Axis  
30 regime or as an heir of the victim. The amount of  
31 and the eligibility for any public assistance,  
32 benefit, or similar entitlement is not affected by  
33 the inclusion of items (i) and (ii) of this  
34 paragraph in gross income for federal income tax

1 purposes. This paragraph is exempt from the  
2 provisions of Section 250; and

3 (Y) Any amount included in adjusted gross  
4 income, other than salary, received by a driver in a  
5 ridesharing arrangement using a motor vehicle.

6 (b) Corporations.

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

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

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

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

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

34 (D) The amount of any net operating loss

1 deduction taken in arriving at taxable income, other  
2 than a net operating loss carried forward from a  
3 taxable year ending prior to December 31, 1986;

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

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

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

29 For taxable years in which there is a net  
30 operating loss carryback or carryforward from more  
31 than one other taxable year ending prior to December  
32 31, 1986, the addition modification provided in this  
33 subparagraph (E) shall be the sum of the amounts  
34 computed independently under the preceding



1 provisions of this subparagraph (E) for each such  
2 taxable year; and

3 (E-5) For taxable years ending after December  
4 31, 1997, an amount equal to any eligible  
5 remediation costs that the corporation deducted in  
6 computing adjusted gross income and for which the  
7 corporation claims a credit under subsection (l) of  
8 Section 201;

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

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

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

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

23 (I) With the exception of any amounts  
24 subtracted under subparagraph (J), an amount equal  
25 to the sum of all amounts disallowed as deductions  
26 by (i) Sections 171(a) (2), and 265(a)(2) and  
27 amounts disallowed as interest expense by Section  
28 291(a)(3) of the Internal Revenue Code, as now or  
29 hereafter amended, and all amounts of expenses  
30 allocable to interest and disallowed as deductions  
31 by Section 265(a)(1) of the Internal Revenue Code,  
32 as now or hereafter amended; and (ii) for taxable  
33 years ending on or after August 13, 1999, Sections  
34 171(a)(2), 265, 280C, 291(a)(3), and 832(b)(5)(B)(i)

1 of the Internal Revenue Code; the provisions of this  
2 subparagraph are exempt from the provisions of  
3 Section 250;

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

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

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

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

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

18 (M-1) For any taxpayer that is a financial  
19 organization within the meaning of Section 304(c) of  
20 this Act, an amount included in such total as  
21 interest income from a loan or loans made by such  
22 taxpayer to a borrower, to the extent that such a  
23 loan is secured by property which is eligible for  
24 the High Impact Business Investment Credit. To  
25 determine the portion of a loan or loans that is  
26 secured by property eligible for a Section 201(h)  
27 ~~201(i)~~ investment credit to the borrower, the entire  
28 principal amount of the loan or loans between the  
29 taxpayer and the borrower should be divided into the  
30 basis of the Section 201(h) ~~201(i)~~ investment credit  
31 property which secures the loan or loans, using for  
32 this purpose the original basis of such property on  
33 the date that it was placed in service in a  
34 federally designated Foreign Trade Zone or Sub-Zone

1 located in Illinois. No taxpayer that is eligible  
2 for the deduction provided in subparagraph (M) of  
3 paragraph (2) of this subsection shall be eligible  
4 for the deduction provided under this subparagraph  
5 (M-1). The subtraction modification available to  
6 taxpayers in any year under this subsection shall be  
7 that portion of the total interest paid by the  
8 borrower with respect to such loan attributable to  
9 the eligible property as calculated under the  
10 previous sentence;

11 (N) Two times any contribution made during the  
12 taxable year to a designated zone organization to  
13 the extent that the contribution (i) qualifies as a  
14 charitable contribution under subsection (c) of  
15 Section 170 of the Internal Revenue Code and (ii)  
16 must, by its terms, be used for a project approved  
17 by the Department of Commerce and Community Affairs  
18 under Section 11 of the Illinois Enterprise Zone  
19 Act;

20 (O) An amount equal to: (i) 85% for taxable  
21 years ending on or before December 31, 1992, or, a  
22 percentage equal to the percentage allowable under  
23 Section 243(a)(1) of the Internal Revenue Code of  
24 1986 for taxable years ending after December 31,  
25 1992, of the amount by which dividends included in  
26 taxable income and received from a corporation that  
27 is not created or organized under the laws of the  
28 United States or any state or political subdivision  
29 thereof, including, for taxable years ending on or  
30 after December 31, 1988, dividends received or  
31 deemed received or paid or deemed paid under  
32 Sections 951 through 964 of the Internal Revenue  
33 Code, exceed the amount of the modification provided  
34 under subparagraph (G) of paragraph (2) of this

1 subsection (b) which is related to such dividends;  
2 plus (ii) 100% of the amount by which dividends,  
3 included in taxable income and received, including,  
4 for taxable years ending on or after December 31,  
5 1988, dividends received or deemed received or paid  
6 or deemed paid under Sections 951 through 964 of the  
7 Internal Revenue Code, from any such corporation  
8 specified in clause (i) that would but for the  
9 provisions of Section 1504 (b) (3) of the Internal  
10 Revenue Code be treated as a member of the  
11 affiliated group which includes the dividend  
12 recipient, exceed the amount of the modification  
13 provided under subparagraph (G) of paragraph (2) of  
14 this subsection (b) which is related to such  
15 dividends;

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

19 (Q) An amount equal to the amount of the  
20 deduction used to compute the federal income tax  
21 credit for restoration of substantial amounts held  
22 under claim of right for the taxable year pursuant  
23 to Section 1341 of the Internal Revenue Code of  
24 1986;

25 (R) In the case of an attorney-in-fact with  
26 respect to whom an interinsurer or a reciprocal  
27 insurer has made the election under Section 835 of  
28 the Internal Revenue Code, 26 U.S.C. 835, an amount  
29 equal to the excess, if any, of the amounts paid or  
30 incurred by that interinsurer or reciprocal insurer  
31 in the taxable year to the attorney-in-fact over the  
32 deduction allowed to that interinsurer or reciprocal  
33 insurer with respect to the attorney-in-fact under  
34 Section 835(b) of the Internal Revenue Code for the

1 taxable year; and

2 (S) For taxable years ending on or after  
3 December 31, 1997, in the case of a Subchapter S  
4 corporation, an amount equal to all amounts of  
5 income allocable to a shareholder subject to the  
6 Personal Property Tax Replacement Income Tax imposed  
7 by subsections (c) and (d) of Section 201 of this  
8 Act, including amounts allocable to organizations  
9 exempt from federal income tax by reason of Section  
10 501(a) of the Internal Revenue Code. This  
11 subparagraph (S) is exempt from the provisions of  
12 Section 250.

13 (3) Special rule. For purposes of paragraph (2)  
14 (A), "gross income" in the case of a life insurance  
15 company, for tax years ending on and after December 31,  
16 1994, shall mean the gross investment income for the  
17 taxable year.

18 (c) Trusts and estates.

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

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

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

31 (B) In the case of (i) an estate, \$600; (ii) a  
32 trust which, under its governing instrument, is  
33 required to distribute all of its income currently,  
34 \$300; and (iii) any other trust, \$100, but in each

1 such case, only to the extent such amount was  
2 deducted in the computation of taxable income;

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

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

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

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

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

1 carryforward;

2 For taxable years in which there is a net  
3 operating loss carryback or carryforward from more  
4 than one other taxable year ending prior to December  
5 31, 1986, the addition modification provided in this  
6 subparagraph (E) shall be the sum of the amounts  
7 computed independently under the preceding  
8 provisions of this subparagraph (E) for each such  
9 taxable year;

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

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

20 (G-5) For taxable years ending after December  
21 31, 1997, an amount equal to any eligible  
22 remediation costs that the trust or estate deducted  
23 in computing adjusted gross income and for which the  
24 trust or estate claims a credit under subsection (1)  
25 of Section 201;

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

28 (H) An amount equal to all amounts included in  
29 such total pursuant to the provisions of Sections  
30 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) and  
31 408 of the Internal Revenue Code or included in such  
32 total as distributions under the provisions of any  
33 retirement or disability plan for employees of any  
34 governmental agency or unit, or retirement payments



1 to retired partners, which payments are excluded in  
2 computing net earnings from self employment by  
3 Section 1402 of the Internal Revenue Code and  
4 regulations adopted pursuant thereto;

5 (I) The valuation limitation amount;

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

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

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

34 (M) An amount equal to those dividends

1 included in such total which were paid by a  
2 corporation which conducts business operations in an  
3 Enterprise Zone or zones created under the Illinois  
4 Enterprise Zone Act and conducts substantially all  
5 of its operations in an Enterprise Zone or Zones;

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

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

19 (P) An amount equal to the amount of the  
20 deduction used to compute the federal income tax  
21 credit for restoration of substantial amounts held  
22 under claim of right for the taxable year pursuant  
23 to Section 1341 of the Internal Revenue Code of  
24 1986; and

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

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

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

33 (d) Partnerships.

34 (1) In general. In the case of a partnership, base

1 income means an amount equal to the taxpayer's taxable  
2 income for the taxable year as modified by paragraph (2).

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

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

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

13 (C) The amount of deductions allowed to the  
14 partnership pursuant to Section 707 (c) of the  
15 Internal Revenue Code in calculating its taxable  
16 income; and

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

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

23 (E) The valuation limitation amount;

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

28 (G) An amount equal to all amounts included in  
29 taxable income as modified by subparagraphs (A),  
30 (B), (C) and (D) which are exempt from taxation by  
31 this State either by reason of its statutes or  
32 Constitution or by reason of the Constitution,  
33 treaties or statutes of the United States; provided  
34 that, in the case of any statute of this State that

1 exempts income derived from bonds or other  
2 obligations from the tax imposed under this Act, the  
3 amount exempted shall be the interest net of bond  
4 premium amortization;

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

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

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

32 (K) An amount equal to those dividends  
33 included in such total which were paid by a  
34 corporation which conducts business operations in an

1 Enterprise Zone or zones created under the Illinois  
 2 Enterprise Zone Act, enacted by the 82nd General  
 3 Assembly, and conducts substantially all of its  
 4 operations ~~which--does--not--conduct--such--operations~~  
 5 ~~other--than~~ in an Enterprise Zone or Zones;

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

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

20 (N) An amount equal to the amount of the  
 21 deduction used to compute the federal income tax  
 22 credit for restoration of substantial amounts held  
 23 under claim of right for the taxable year pursuant  
 24 to Section 1341 of the Internal Revenue Code of  
 25 1986.

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

27 (1) In general. Subject to the provisions of  
 28 paragraph (2) and subsection (b) (3), for purposes of  
 29 this Section and Section 803(e), a taxpayer's gross  
 30 income, adjusted gross income, or taxable income for the  
 31 taxable year shall mean the amount of gross income,  
 32 adjusted gross income or taxable income properly  
 33 reportable for federal income tax purposes for the  
 34 taxable year under the provisions of the Internal Revenue

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

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

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

1 the Internal Revenue Code;

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

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

10 (D) Real estate investment trusts. In the  
11 case of a real estate investment trust subject to  
12 the tax imposed by Section 857 of the Internal  
13 Revenue Code, real estate investment trust taxable  
14 income;

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

28 (F) Cooperatives. In the case of a  
29 cooperative corporation or association, the taxable  
30 income of such organization determined in accordance  
31 with the provisions of Section 1381 through 1388 of  
32 the Internal Revenue Code;

33 (G) Subchapter S corporations. In the case  
34 of: (i) a Subchapter S corporation for which there



1 is in effect an election for the taxable year under  
2 Section 1362 of the Internal Revenue Code, the  
3 taxable income of such corporation determined in  
4 accordance with Section 1363(b) of the Internal  
5 Revenue Code, except that taxable income shall take  
6 into account those items which are required by  
7 Section 1363(b)(1) of the Internal Revenue Code to  
8 be separately stated; and (ii) a Subchapter S  
9 corporation for which there is in effect a federal  
10 election to opt out of the provisions of the  
11 Subchapter S Revision Act of 1982 and have applied  
12 instead the prior federal Subchapter S rules as in  
13 effect on July 1, 1982, the taxable income of such  
14 corporation determined in accordance with the  
15 federal Subchapter S rules as in effect on July 1,  
16 1982; and

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

25 (f) Valuation limitation amount.

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

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

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

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

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

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

34           (C) The Department shall prescribe such

1 regulations as may be necessary to carry out the  
2 purposes of this paragraph.

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

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

15 (Source: P.A. 90-491, eff. 1-1-98; 90-717, eff. 8-7-98;  
16 90-770, eff. 8-14-98; 91-192, eff. 7-20-99; 91-205, eff.  
17 7-20-99; 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676,  
18 eff. 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01;  
19 revised 1-15-01.)

20 (35 ILCS 5/209)

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

23 (a) Beginning with tax years ending on or after June 30,  
24 1995, every taxpayer who is primarily engaged in  
25 manufacturing is allowed a credit against the tax imposed by  
26 subsections (a) and (b) of Section 201 in an amount equal to  
27 20% of the taxpayer's direct payroll expenditures for which a  
28 credit has not already been claimed under subsection (j) of  
29 Section 201 of this Act, in the tax year for which the credit  
30 is claimed, for cooperative secondary school youth vocational  
31 programs in Illinois which are certified as qualifying  
32 TECH-PREP programs by the State Board of Education and--the

1 Department--of--Revenue because the programs prepare students  
2 to be technically skilled workers and meet the performance  
3 standards of business and industry and the admission  
4 standards of higher education. The credit may also be claimed  
5 for personal services rendered to the taxpayer by a TECH-PREP  
6 student or instructor (i) which would be subject to the  
7 provisions of Article 7 of this Act if the student or  
8 instructor was an employee of the taxpayer and (ii) for which  
9 no credit under this Section is claimed by another taxpayer.

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

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

26 (d) This Section does not apply to those programs with  
27 national standards that have been or in the future are  
28 approved by the U.S. Department of Labor, Bureau of  
29 Apprenticeship Training or any federal agency succeeding to  
30 the responsibilities of that Bureau.

31 (Source: P.A. 88-505; 89-399, eff. 8-20-95.)

32 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

33 Sec. 502. Returns and notices.

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

4 (1) For which such person is liable for a tax  
5 imposed by this Act, or

6 (2) In the case of a resident or in the case of a  
7 corporation which is qualified to do business in this  
8 State, for which such person is required to make a  
9 federal income tax return, regardless of whether such  
10 person is liable for a tax imposed by this Act. However,  
11 this paragraph shall not require a resident to make a  
12 return if such person has an Illinois base income of the  
13 basic amount in Section 204(b) or less and is either  
14 claimed as a dependent on another person's tax return  
15 under the Internal Revenue Code of 1986, or is claimed as  
16 a dependent on another person's tax return under this  
17 Act.

18 (b) Fiduciaries and receivers.

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

23 (2) Individuals under a disability. If an  
24 individual is unable to make a return or notice required  
25 under this Act, the return or notice required of such  
26 individual shall be made by his duly authorized agent,  
27 guardian, fiduciary or other person charged with the care  
28 of the person or property of such individual.

29 (3) Estates and trusts. Returns or notices required  
30 of an estate or a trust shall be made by the fiduciary  
31 thereof.

32 (4) Receivers, trustees and assignees for  
33 corporations. In a case where a receiver, trustee in  
34 bankruptcy, or assignee, by order of a court of competent

1 jurisdiction, by operation of law, or otherwise, has  
2 possession of or holds title to all or substantially all  
3 the property or business of a corporation, whether or not  
4 such property or business is being operated, such  
5 receiver, trustee, or assignee shall make the returns and  
6 notices required of such corporation in the same manner  
7 and form as corporations are required to make such  
8 returns and notices.

9 (c) Joint returns by husband and wife.

10 (1) Except as provided in paragraph (3), if a  
11 husband and wife file a joint federal income tax return  
12 for a taxable year they shall file a joint return under  
13 this Act for such taxable year and their liabilities  
14 shall be joint and several, but if the federal income tax  
15 liability of either spouse is determined on a separate  
16 federal income tax return, they shall file separate  
17 returns under this Act.

18 (2) If neither spouse is required to file a federal  
19 income tax return and either or both are required to file  
20 a return under this Act, they may elect to file separate  
21 or joint returns and pursuant to such election their  
22 liabilities shall be separate or joint and several.

23 (3) If either husband or wife is a resident and the  
24 other is a nonresident, they shall file separate returns  
25 in this State on such forms as may be required by the  
26 Department in which event their tax liabilities shall be  
27 separate; but they may elect to determine their joint net  
28 income and file a joint return as if both were residents  
29 and in such case, their liabilities shall be joint and  
30 several.

31 (4) Innocent spouses.

32 (A) However, for tax liabilities arising and  
33 paid prior to August 13, 1999 ~~the-effective-date--of~~  
34 ~~this-amendatory-Act-of-the-91st-General-Assembly~~, an

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

15 (B) For tax liabilities arising on and after  
16 August 13, 1999 ~~the--effective--date--of--this~~  
17 ~~amendatory-Aet-of-the-91st-General-Assembly~~ or which  
18 arose prior to that effective date, but remain  
19 unpaid as of that ~~the--effective~~ date, if an  
20 individual who filed a joint return for any taxable  
21 year has made an election under this paragraph, the  
22 individual's liability for any tax shown on the  
23 joint return shall not exceed the individual's  
24 separate return amount and the individual's  
25 liability for any deficiency assessed for that  
26 taxable year shall not exceed the portion of the  
27 deficiency properly allocable to the individual.  
28 For purposes of this paragraph:

29 (i) An election properly made pursuant to  
30 Section 6015 of the Internal Revenue Code shall  
31 constitute an election under this paragraph,  
32 provided that the election shall not be  
33 effective until the individual has notified the  
34 Department of the election in the form and

1 manner prescribed by the Department.

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

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

21 (iv) In determining the validity of an  
22 individual's election under subparagraph (ii)  
23 and in determining an electing individual's  
24 separate return amount or portion of any  
25 deficiency under subparagraph (iii), any  
26 determination made by the Secretary of the  
27 Treasury, by the United States Tax Court on  
28 petition for review of a determination by the  
29 Secretary of the Treasury, or on appeal from  
30 the United States Tax Court under Section 6015  
31 ~~6015(a)~~ of the Internal Revenue Code regarding  
32 criteria for eligibility or under subsection  
33 (d) of Section 6015 ~~6015(b)--or--(e)~~ of the  
34 Internal Revenue Code regarding the allocation



1 of any item of income, deduction, payment, or  
2 credit between an individual making the federal  
3 election and that individual's spouse shall be  
4 conclusively presumed to be correct. With  
5 respect to any item that is not the subject of  
6 a determination by the Secretary of the  
7 Treasury or the federal courts, in any  
8 proceeding involving this subsection, the  
9 individual making the election shall have the  
10 burden of proof with respect to any item except  
11 that the Department shall have the burden of  
12 proof with respect to items in subdivision  
13 (ii).

14 (v) Any election made by an individual  
15 under this subsection shall apply to all years  
16 for which that individual and the spouse named  
17 in the election have filed a joint return.

18 (vi) After receiving a notice that the  
19 federal election has been made or after  
20 receiving an election under subdivision (ii),  
21 the Department shall take no collection action  
22 against the electing individual for any  
23 liability arising from a joint return covered  
24 by the election until the Department has  
25 notified the electing individual in writing  
26 that the election is invalid or of the portion  
27 of the liability the Department has allocated  
28 to the electing individual. Within 60 days  
29 (150 days if the individual is outside the  
30 United States) after the issuance of such  
31 notification, the individual may file a written  
32 protest of the denial of the election or of the  
33 Department's determination of the liability  
34 allocated to him or her and shall be granted a

1 hearing within the Department under the  
2 provisions of Section 908. If a protest is  
3 filed, the Department shall take no collection  
4 action against the electing individual until  
5 the decision regarding the protest has become  
6 final under subsection (d) of Section 908 or,  
7 if administrative review of the Department's  
8 decision is requested under Section 1201, until  
9 the decision of the court becomes final.

10 (d) Partnerships. Every partnership having any base  
11 income allocable to this State in accordance with section  
12 305(c) shall retain information concerning all items of  
13 income, gain, loss and deduction; the names and addresses of  
14 all of the partners, or names and addresses of members of a  
15 limited liability company, or other persons who would be  
16 entitled to share in the base income of the partnership if  
17 distributed; the amount of the distributive share of each;  
18 and such other pertinent information as the Department may by  
19 forms or regulations prescribe. The partnership shall make  
20 that information available to the Department when requested  
21 by the Department.

22 (e) For taxable years ending on or after December 31,  
23 1985, and before December 31, 1993, taxpayers that are  
24 corporations (other than Subchapter S corporations) having  
25 the same taxable year and that are members of the same  
26 unitary business group may elect to be treated as one  
27 taxpayer for purposes of any original return, amended return  
28 which includes the same taxpayers of the unitary group which  
29 joined in the election to file the original return,  
30 extension, claim for refund, assessment, collection and  
31 payment and determination of the group's tax liability under  
32 this Act. This subsection (e) does not permit the election to  
33 be made for some, but not all, of the purposes enumerated  
34 above. For taxable years ending on or after December 31,

1 1987, corporate members (other than Subchapter S  
2 corporations) of the same unitary business group making this  
3 subsection (e) election are not required to have the same  
4 taxable year.

5 For taxable years ending on or after December 31, 1993,  
6 taxpayers that are corporations (other than Subchapter S  
7 corporations) and that are members of the same unitary  
8 business group shall be treated as one taxpayer for purposes  
9 of any original return, amended return which includes the  
10 same taxpayers of the unitary group which joined in filing  
11 the original return, extension, claim for refund, assessment,  
12 collection and payment and determination of the group's tax  
13 liability under this Act.

14 (f) The Department may promulgate regulations to permit  
15 nonresident individual partners of the same partnership,  
16 nonresident Subchapter S corporation shareholders of the same  
17 Subchapter S corporation, and nonresident individuals  
18 transacting an insurance business in Illinois under a Lloyds  
19 plan of operation, and nonresident individual members of the  
20 same limited liability company that is treated as a  
21 partnership under Section 1501 (a)(16) of this Act, to file  
22 composite individual income tax returns reflecting the  
23 composite income of such individuals allocable to Illinois  
24 and to make composite individual income tax payments. The  
25 Department may by regulation also permit such composite  
26 returns to include the income tax owed by Illinois residents  
27 attributable to their income from partnerships, Subchapter S  
28 corporations, insurance businesses organized under a Lloyds  
29 plan of operation, or limited liability companies that are  
30 treated as partnership under Section 1501 (a)(16) of this  
31 Act, in which case such Illinois residents will be permitted  
32 to claim credits on their individual returns for their shares  
33 of the composite tax payments. This paragraph of subsection  
34 (f) applies to taxable years ending on or after December 31,

1 1987.

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

19 (g) The Department may adopt rules to authorize the  
20 electronic filing of any return required to be filed under  
21 this Section.

22 (Source: P.A. 90-613, eff. 7-9-98; 91-541, eff. 8-13-99;  
23 91-913, eff. 1-1-01.)

24 (35 ILCS 5/506) (from Ch. 120, par. 5-506)

25 Sec. 506. Federal Returns.

26 (a) In general. Any person required to make a return  
27 for a taxable year under this Act may, at any time that a  
28 deficiency could be assessed or a refund claimed under this  
29 Act in respect of any item reported or properly reportable on  
30 such return or any amendment thereof, be required to furnish  
31 to the Department a true and correct copy of any return which  
32 may pertain to such item and which was filed by such person  
33 under the provisions of the Internal Revenue Code.

1 (b) Changes affecting federal income tax. A person shall  
2 notify the Department if: ~~In-the-event~~

3 (1) the taxable income, any item of income or  
4 deduction, the income tax liability, or any tax credit  
5 reported in a federal income tax return of that any  
6 person for any year is altered by amendment of such  
7 return or as a result of any other recomputation or  
8 redetermination of federal taxable income or loss, and  
9 such alteration reflects a change or settlement with  
10 respect to any item or items, affecting the computation  
11 of such person's net income, net loss, or of any credit  
12 provided by Article 2 of this Act for any year under this  
13 Act, or in the number of personal exemptions allowable to  
14 such person under Section 151 of the Internal Revenue  
15 Code, or

16 (2) the amount of tax required to be withheld by  
17 that person from compensation paid to employees and  
18 required to be reported by that person on a federal  
19 return is altered by amendment of the return or by any  
20 other recomputation or redetermination that is agreed to  
21 or finally determined on or after January 1, 2002, and  
22 the alteration affects the amount of compensation subject  
23 to withholding by that person under Section 701 of this  
24 Act such-person--shall--notify--the--Department--of--such  
25 alteration.

26 Such notification shall be in the form of an amended return  
27 or such other form as the Department may by regulations  
28 prescribe, shall contain the person's name and address and  
29 such other information as the Department may by regulations  
30 prescribe, shall be signed by such person or his duly  
31 authorized representative, and shall be filed not later than  
32 120 days after such alteration has been agreed to or finally  
33 determined for federal income tax purposes or any federal  
34 income tax deficiency or refund, tentative carryback

1 adjustment, abatement or credit resulting therefrom has been  
2 assessed or paid, whichever shall first occur.

3 (Source: P.A. 90-491, eff. 1-1-98.)

4 (35 ILCS 5/601.1) (Ch. 120, par. 6-601.1)

5 Sec. 601.1. Payment by electronic funds transfer.

6 (a) Beginning on October 1, 1993, a taxpayer who has an  
7 average monthly tax liability of \$150,000 or more under  
8 Article 7 of this Act shall make all payments required by  
9 rules of the Department by electronic funds transfer.  
10 Beginning October 1, 1993, a taxpayer who has an average  
11 quarterly estimated tax payment obligation of \$450,000 or  
12 more under Article 8 of this Act shall make all payments  
13 required by rules of the Department by electronic funds  
14 transfer. Beginning on October 1, 1994, a taxpayer who has  
15 an average monthly tax liability of \$100,000 or more under  
16 Article 7 of this Act shall make all payments required by  
17 rules of the Department by electronic funds transfer.  
18 Beginning October 1, 1994, a taxpayer who has an average  
19 quarterly estimated tax payment obligation of \$300,000 or  
20 more under Article 8 of this Act shall make all payments  
21 required by rules of the Department by electronic funds  
22 transfer. Beginning on October 1, 1995, a taxpayer who has  
23 an average monthly tax liability of \$50,000 or more under  
24 Article 7 of this Act shall make all payments required by  
25 rules of the Department by electronic funds transfer.  
26 Beginning October 1, 1995, a taxpayer who has an average  
27 quarterly estimated tax payment obligation of \$150,000 or  
28 more under Article 8 of this Act shall make all payments  
29 required by rules of the Department by electronic funds  
30 transfer. Beginning on October 1, 2000, and for all liability  
31 periods thereafter, a taxpayer who has an average annual tax  
32 liability of \$200,000 or more under Article 7 of this Act  
33 shall make all payments required by rules of the Department

1 by electronic funds transfer. Beginning October 1, 2000, a  
2 taxpayer who has an average quarterly estimated tax payment  
3 obligation of \$50,000 or more under Article 8 of this Act  
4 shall make all payments required by rules of the Department  
5 by electronic funds transfer. Beginning on October 1, 2002, a  
6 taxpayer who has a tax liability in the amount set forth in  
7 subsection (b) of Section 2505-210 of the Department of  
8 Revenue Law shall make all payments required by rules of the  
9 Department by electronic funds transfer.

10 (b) Any taxpayer who is not required to make payments by  
11 electronic funds transfer may make payments by electronic  
12 funds transfer with the permission of the Department.

13 (c) All taxpayers required to make payments by  
14 electronic funds transfer and any taxpayers who wish to  
15 voluntarily make payments by electronic funds transfer shall  
16 make those payments in the manner authorized by the  
17 Department.

18 (d) The Department shall notify all taxpayers required  
19 to make payments by electronic funds transfer. All  
20 taxpayers notified by the Department shall make payments by  
21 electronic funds transfer for a minimum of one year beginning  
22 on October 1. In determining the threshold amounts under  
23 subsection (a), the Department shall calculate the averages  
24 as follows:

25 (1) the total liability under Article 7 for the  
26 preceding tax year (and, prior to October 1, 2000,  
27 divided by 12); or

28 (2) for purposes of estimated payments under  
29 Article 8, the total tax obligation of the taxpayer for  
30 the previous tax year divided by 4.

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

34 (Source: P.A. 91-541, eff. 8-13-99.)

1 (35 ILCS 5/701) (from Ch. 120, par. 7-701)

2 Sec. 701. Requirement and Amount of Withholding.

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

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

8 (2) payments described in subsection (b) shall  
9 deduct and withhold from such compensation for each  
10 payroll period (as defined in Section 3401 of the  
11 Internal Revenue Code) an amount equal to the amount by  
12 which such individual's compensation exceeds the  
13 proportionate part of this withholding exemption  
14 (computed as provided in Section 702) attributable to the  
15 payroll period for which such compensation is payable  
16 multiplied by a percentage equal to the percentage tax  
17 rate for individuals provided in subsection (b) of  
18 Section 201.

19 (b) Payment to Residents.

20 Any payment (including compensation) to a resident by a  
21 payor maintaining an office or transacting business within  
22 this State (including any agency, officer, or employee of  
23 this State or of any political subdivision of this State) and  
24 on which withholding of tax is required under the provisions  
25 of the Internal Revenue Code shall be deemed to be  
26 compensation paid in this State by an employer to an employee  
27 for the purposes of Article 7 and Section 601 (b) (1) to the  
28 extent such payment is included in the recipient's base  
29 income and not subjected to withholding by another state.

30 (c) Special Definitions.

31 Withholding shall be considered required under the  
32 provisions of the Internal Revenue Code to the extent the  
33 Internal Revenue Code either requires withholding or allows  
34 for voluntary withholding the payor and recipient have



1 entered into such a voluntary withholding agreement. For the  
2 purposes of Article 7 and Section 1002 (c) the term  
3 "employer" includes any payor who is required to withhold tax  
4 pursuant to this Section.

5 (d) Reciprocal Exemption.

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

15 (e) Notwithstanding subsection (a) (2) of this Section,  
16 no withholding is required on payments for which withholding  
17 is required under Section 3405 or 3406 of the Internal  
18 Revenue Code of 1954.

19 (Source: P.A. 90-491, eff. 1-1-98; 91-239, eff. 1-1-00.)

20 (35 ILCS 5/905) (from Ch. 120, par. 9-905)

21 Sec. 905. Limitations on Notices of Deficiency.

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

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

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

30 (b) Omission of more than 25% of income. If the taxpayer  
31 omits from base income an amount properly includible therein  
32 which is in excess of 25% of the amount of base income stated  
33 in the return, a notice of deficiency may be issued not later

1 than 6 years after the return was filed. For purposes of this  
2 paragraph, there shall not be taken into account any amount  
3 which is omitted in the return if such amount is disclosed in  
4 the return, or in a statement attached to the return, in a  
5 manner adequate to apprise the Department of the nature and  
6 the amount of such item.

7 (c) No return or fraudulent return. If no return is  
8 filed or a false and fraudulent return is filed with intent  
9 to evade the tax imposed by this Act, a notice of deficiency  
10 may be issued at any time.

11 (d) Failure to report federal change. If a taxpayer  
12 fails to notify the Department in any case where notification  
13 is required by Section 304(c) or 506(b), or fails to report a  
14 change or correction which is treated in the same manner as  
15 if it were a deficiency for federal income tax purposes, a  
16 notice of deficiency may be issued (i) at any time or (ii) on  
17 or after August 13, 1999 ~~the--effective--date--of---this~~  
18 ~~amendatory--Act-of-the-91st-General-Assembly~~, at any time for  
19 the taxable year for which the notification is required or  
20 for any taxable year to which the taxpayer may carry an  
21 Article 2 credit, or a Section 207 loss, earned, incurred, or  
22 used in the year for which the notification is required;  
23 provided, however, that the amount of any proposed assessment  
24 set forth in the notice shall be limited to the amount of any  
25 deficiency resulting under this Act from the recomputation of  
26 the taxpayer's net income, Article 2 credits, or Section 207  
27 loss earned, incurred, or used in the taxable year for which  
28 the notification is required after giving effect to the item  
29 or items required to be reported.

30 (e) Report of federal change.

31 (1) Before August 13, 1999 ~~the--effective--date--of~~  
32 ~~this--amendatory-Act-of-the-91st-General-Assembly~~, in any  
33 case where notification of an alteration is given as  
34 required by Section 506(b), a notice of deficiency may be

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

9 (2) On and after August 13, 1999 ~~the effective date~~  
10 ~~of this amendatory Act of the 91st General Assembly,~~ in  
11 any case where notification of an alteration is given as  
12 required by Section 506(b), a notice of deficiency may be  
13 issued at any time within 2 years after the date such  
14 notification is given for the taxable year for which the  
15 notification is given or for any taxable year to which  
16 the taxpayer may carry an Article 2 credit, or a Section  
17 207 loss, earned, incurred, or used in the year for which  
18 the notification is given, provided, however, that the  
19 amount of any proposed assessment set forth in such  
20 notice shall be limited to the amount of any deficiency  
21 resulting under this Act from recomputation of the  
22 taxpayer's net income, Article 2 credits, or Section 207  
23 loss earned, incurred, or used in the taxable year for  
24 which the notification is given after giving effect to  
25 the item or items reflected in the reported alteration.

26 (f) Extension by agreement. Where, before the expiration  
27 of the time prescribed in this section for the issuance of a  
28 notice of deficiency, both the Department and the taxpayer  
29 shall have consented in writing to its issuance after such  
30 time, such notice may be issued at any time prior to the  
31 expiration of the period agreed upon. In the case of a  
32 taxpayer who is a partnership, Subchapter S corporation, or  
33 trust and who enters into an agreement with the Department  
34 pursuant to this subsection on or after January 1, 2002, a

1 notice of deficiency may be issued to the partners,  
2 shareholders, or beneficiaries of the taxpayer at any time  
3 prior to the expiration of the period agreed upon. Any  
4 proposed assessment set forth in the notice, however, shall  
5 be limited to the amount of any deficiency resulting under  
6 this Act from recomputation of items of income, deduction,  
7 credits, or other amounts of the taxpayer that are taken into  
8 account by the partner, shareholder, or beneficiary in  
9 computing its liability under this Act. The period so agreed  
10 upon may be extended by subsequent agreements in writing made  
11 before the expiration of the period previously agreed upon.

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

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

33 (h) Time return deemed filed. For purposes of this  
34 Section a tax return filed before the last day prescribed by

1 law (including any extension thereof) shall be deemed to have  
2 been filed on such last day.

3 (i) Request for prompt determination of liability. For  
4 purposes of Subsection (a)(1), in the case of a tax return  
5 required under this Act in respect of a decedent, or by his  
6 estate during the period of administration, or by a  
7 corporation, the period referred to in such Subsection shall  
8 be 18 months after a written request for prompt determination  
9 of liability is filed with the Department (at such time and  
10 in such form and manner as the Department shall by  
11 regulations prescribe) by the executor, administrator, or  
12 other fiduciary representing the estate of such decedent, or  
13 by such corporation, but not more than 3 years after the date  
14 the return was filed. This Subsection shall not apply in the  
15 case of a corporation unless:

16 (1) (A) Such written request notifies the  
17 Department that the corporation contemplates dissolution  
18 at or before the expiration of such 18-month period, (B)  
19 the dissolution is begun in good faith before the  
20 expiration of such 18-month period, and (C) the  
21 dissolution is completed;

22 (2) (A) Such written request notifies the  
23 Department that a dissolution has in good faith been  
24 begun, and (B) the dissolution is completed; or

25 (3) A dissolution has been completed at the time  
26 such written request is made.

27 (j) Withholding tax. In the case of returns required  
28 under Article 7 of this Act (with respect to any amounts  
29 withheld as tax or any amounts required to have been withheld  
30 as tax) a notice of deficiency shall be issued not later than  
31 3 years after the 15th day of the 4th month following the  
32 close of the calendar year in which such withholding was  
33 required.

34 (k) Penalties for failure to make information reports.

1 A notice of deficiency for the penalties provided by  
2 Subsection 1405.1(c) of this Act may not be issued more than  
3 3 years after the due date of the reports with respect to  
4 which the penalties are asserted.

5 (l) Penalty for failure to file withholding returns. A  
6 notice of deficiency for penalties provided by Section 1004  
7 of this Act for taxpayer's failure to file withholding  
8 returns may not be issued more than three years after the  
9 15th day of the 4th month following the close of the calendar  
10 year in which the withholding giving rise to taxpayer's  
11 obligation to file those returns occurred.

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

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

22 2) Transferee of Transferee. In the case of the  
23 liability of a transferee, up to 2 years after the  
24 expiration of the period of limitation for assessment  
25 against the preceding transferee, but not more than 3  
26 years after the expiration of the period of limitation  
27 for assessment against the initial transferor; except  
28 that if, before the expiration of the period of  
29 limitation for the assessment of the liability of the  
30 transferee, a court proceeding for the collection of the  
31 tax or liability in respect thereof has been begun  
32 against the initial transferor or the last preceding  
33 transferee, as the case may be, then the period of  
34 limitation for assessment of the liability of the

1 transferee shall expire 2 years after the return of the  
2 certified copy of the judgment in the court proceeding.

3 (n) Notice of decrease in net loss. On and after the  
4 effective date of this amendatory Act of the 92nd General  
5 Assembly, no notice of deficiency shall be issued as the  
6 result of a decrease determined by the Department in the net  
7 loss incurred by a taxpayer under Section 207 of this Act  
8 unless the Department has notified the taxpayer of the  
9 proposed decrease within 3 years after the return reporting  
10 the loss was filed or within one year after an amended return  
11 reporting an increase in the loss was filed, provided that in  
12 the case of an amended return, a decrease proposed by the  
13 Department more than 3 years after the original return was  
14 filed may not exceed the increase claimed by the taxpayer on  
15 the original return.

16 (Source: P.A. 90-491, eff. 1-1-98; 91-541, eff. 8-13-99.)

17 (35 ILCS 5/911) (from Ch. 120, par. 9-911)

18 Sec. 911. Limitations on Claims for Refund.

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

21 (1) A claim for refund shall be filed not later  
22 than 3 years after the date the return was filed (in the  
23 case of returns required under Article 7 of this Act  
24 respecting any amounts withheld as tax, not later than 3  
25 years after the 15th day of the 4th month following the  
26 close of the calendar year in which such withholding was  
27 made), or one year after the date the tax was paid,  
28 whichever is the later; and

29 (2) No credit or refund shall be allowed or made  
30 with respect to the year for which the claim was filed  
31 unless such claim is filed within such period.

32 (b) Federal changes.

33 (1) In general. In any case where notification of

1 an alteration is required by Section 506 (b), a claim for  
2 refund may be filed within 2 years after the date on  
3 which such notification was due (regardless of whether  
4 such notice was given), but the amount recoverable  
5 pursuant to a claim filed under this Section shall be  
6 limited to the amount of any overpayment resulting under  
7 this Act from recomputation of the taxpayer's net income,  
8 net loss, or Article 2 credits for the taxable year after  
9 giving effect to the item or items reflected in the  
10 alteration required to be reported.

11 (2) Tentative carryback adjustments paid before  
12 January 1, 1974. If, as the result of the payment before  
13 January 1, 1974 of a federal tentative carryback  
14 adjustment, a notification of an alteration is required  
15 under Section 506 (b), a claim for refund may be filed at  
16 any time before January 1, 1976, but the amount  
17 recoverable pursuant to a claim filed under this Section  
18 shall be limited to the amount of any overpayment  
19 resulting under this Act from recomputation of the  
20 taxpayer's base income for the taxable year after giving  
21 effect to the federal alteration resulting from the  
22 tentative carryback adjustment irrespective of any  
23 limitation imposed in paragraph (1) of this subsection.

24 (c) Extension by agreement. Where, before the  
25 expiration of the time prescribed in this section for the  
26 filing of a claim for refund, both the Department and the  
27 claimant shall have consented in writing to its filing after  
28 such time, such claim may be filed at any time prior to the  
29 expiration of the period agreed upon. The period so agreed  
30 upon may be extended by subsequent agreements in writing made  
31 before the expiration of the period previously agreed upon.  
32 In the case of a taxpayer who is a partnership, Subchapter S  
33 corporation, or trust and who enters into an agreement with  
34 the Department pursuant to this subsection on or after



1 January 1, 2002, a claim for refund may be issued to the  
2 partners, shareholders, or beneficiaries of the taxpayer at  
3 any time prior to the expiration of the period agreed upon.  
4 Any refund allowed pursuant to the claim, however, shall be  
5 limited to the amount of any overpayment of tax due under  
6 this Act that results from recomputation of items of income,  
7 deduction, credits, or other amounts of the taxpayer that are  
8 taken into account by the partner, shareholder, or  
9 beneficiary in computing its liability under this Act.

10 (d) Limit on amount of credit or refund.

11 (1) Limit where claim filed within 3-year period.

12 If the claim was filed by the claimant during the 3-year  
13 period prescribed in subsection (a), the amount of the  
14 credit or refund shall not exceed the portion of the tax  
15 paid within the period, immediately preceding the filing  
16 of the claim, equal to 3 years plus the period of any  
17 extension of time for filing the return.

18 (2) Limit where claim not filed within 3-year  
19 period. If the claim was not filed within such 3-year  
20 period, the amount of the credit or refund shall not  
21 exceed the portion of the tax paid during the one year  
22 immediately preceding the filing of the claim.

23 (e) Time return deemed filed. For purposes of this  
24 section a tax return filed before the last day prescribed by  
25 law for the filing of such return (including any extensions  
26 thereof) shall be deemed to have been filed on such last day.

27 (f) No claim for refund based on the taxpayer's taking a  
28 credit for estimated tax payments as provided by Section 601  
29 (b) (2) or for any amount paid by a taxpayer pursuant to  
30 Section 602(a) or for any amount of credit for tax withheld  
31 pursuant to Section 701 may be filed more than 3 years after  
32 the due date, as provided by Section 505, of the return which  
33 was required to be filed relative to the taxable year for  
34 which the payments were made or for which the tax was

1 withheld. The changes in this subsection (f) made by this  
2 amendatory Act of 1987 shall apply to all taxable years  
3 ending on or after December 31, 1969.

4 (g) Special Period of Limitation with Respect to Net  
5 Loss Carrybacks. If the claim for refund relates to an  
6 overpayment attributable to a net loss carryback as provided  
7 by Section 207, in lieu of the 3 year period of limitation  
8 prescribed in subsection (a), the period shall be that period  
9 which ends 3 years after the time prescribed by law for  
10 filing the return (including extensions thereof) for the  
11 taxable year of the net loss which results in such carryback  
12 (or, on and after August 13, 1999 ~~the effective date of this~~  
13 ~~amendatory Act of the 91st General Assembly~~, with respect to  
14 a change in the carryover of an Article 2 credit to a taxable  
15 year resulting from the carryback of a Section 207 loss  
16 incurred in a taxable year beginning on or after January 1,  
17 2000, the period shall be that period that ends 3 years after  
18 the time prescribed by law for filing the return (including  
19 extensions of that time) for that subsequent taxable year),  
20 or the period prescribed in subsection (c) in respect of such  
21 taxable year, whichever expires later. In the case of such a  
22 claim, the amount of the refund may exceed the portion of the  
23 tax paid within the period provided in subsection (d) to the  
24 extent of the amount of the overpayment attributable to such  
25 carryback. On and after August 13, 1999 ~~the effective date of~~  
26 ~~this amendatory Act of the 91st General Assembly~~, if the  
27 claim for refund relates to an overpayment attributable to  
28 the carryover of an Article 2 credit, or of a Section 207  
29 loss, earned, incurred (in a taxable year beginning on or  
30 after January 1, 2000), or used in a year for which a  
31 notification of a change affecting federal taxable income  
32 must be filed under subsection (b) of Section 506, the claim  
33 may be filed within the period prescribed in paragraph (1) of  
34 subsection (b) in respect of the year for which the

1 notification is required. In the case of such a claim, the  
2 amount of the refund may exceed the portion of the tax paid  
3 within the period provided in subsection (d) to the extent of  
4 the amount of the overpayment attributable to the  
5 recomputation of the taxpayer's Article 2 credits, or Section  
6 207 loss, earned, incurred, or used in the taxable year for  
7 which the notification is given.

8 (h) Claim for refund based on net loss. On and after  
9 the effective date of this amendatory Act of the 92nd General  
10 Assembly, no claim for refund shall be allowed to the extent  
11 the refund is the result of an amount of net loss incurred  
12 under Section 207 of this Act that was not reported to the  
13 Department within 3 years of the due date (including  
14 extensions) of the return for the loss year on either the  
15 original return filed by the taxpayer or on amended return.

16 (Source: P.A. 90-491, eff. 1-1-98; 91-541, eff. 8-13-99.)

17 (35 ILCS 5/911.2 new)

18 Sec. 911.2. Refunds withheld; tax claims of other  
19 states.

20 (a) Definitions. In this Section the following terms  
21 have the meanings indicated.

22 "Claimant state" means any state or the District of  
23 Columbia that requests the withholding of a refund pursuant  
24 to this Section and that extends a like comity for the  
25 collection of taxes owed to this State.

26 "Income tax" means any amount of income tax imposed on  
27 taxpayers under the laws of the State of Illinois or the  
28 claimant state, including additions to tax for penalties and  
29 interest.

30 "Refund" means a refund of overpaid income taxes imposed  
31 by the State of Illinois or the claimant state.

32 "Tax officer" means a unit or official of the claimant  
33 state, or the duly authorized agent of that unit or official,

1 charged with the imposition, assessment, or collection of  
2 state income taxes.

3 "Taxpayer" means any individual person identified by a  
4 claimant state under this Section as owing taxes to that  
5 claimant state, and in the case of a refund arising from the  
6 filing of a joint return, the taxpayer's spouse.

7 (b) In general. Except as provided in subsection (c) of  
8 this Section, a tax officer may:

9 (1) certify to the Director the existence of a  
10 taxpayer's delinquent income tax liability; and

11 (2) request the Director to withhold any refund to  
12 which the taxpayer is entitled.

13 (c) Comity. A tax officer may not certify or request  
14 the Director to withhold a refund unless the laws of the  
15 claimant state:

16 (1) allow the Director to certify an income tax  
17 liability;

18 (2) allow the Director to request the tax officer  
19 to withhold the taxpayer's tax refund; and

20 (3) provide for the payment of the refund to the  
21 State of Illinois.

22 (d) Certification. A certification by a tax officer to  
23 the Director shall include:

24 (1) the full name and address of the taxpayer and  
25 any other names known to be used by the taxpayer;

26 (2) the social security number or federal tax  
27 identification number of the taxpayer;

28 (3) the amount of the income tax liability; and

29 (4) a statement that all administrative and  
30 judicial remedies and appeals have been exhausted or have  
31 lapsed and that the assessment of tax, interest, and  
32 penalty has become final.

33 (e) Notification. As to any taxpayer due a refund, the  
34 Director shall:

1           (1) notify the taxpayer that a claimant state has  
2 provided certification of the existence of an income tax  
3 liability;

4           (2) inform the taxpayer of the tax liability  
5 certified, including a detailed statement for each  
6 taxable year showing tax, interest, and penalty;

7           (3) inform the taxpayer that failure to file a  
8 protest in accordance with subsection (f) of this Section  
9 shall constitute a waiver of any demand against this  
10 State for the amount certified and will result in payment  
11 to the claimant state as provided in subsection (i) of  
12 this Section;

13           (4) provide the taxpayer with notice of an  
14 opportunity to request a hearing to challenge the  
15 certification; and

16           (5) inform the taxpayer that the hearing may be  
17 requested (i) pursuant to Section 910 of this Act, or  
18 (ii) with the tax officer, in accordance with the laws of  
19 the claimant state.

20           (f) Protest of withholding. A taxpayer may protest the  
21 withholding of a refund pursuant to Section 910 of this Act  
22 (except that the protest shall be filed within 30 days after  
23 the date of the Director's notice of certification pursuant  
24 to subsection (e) of this Section). If a taxpayer files a  
25 timely protest, the Director shall:

26           (1) suspend the proposed withholding and impound  
27 the claimed amount of the refund;

28           (2) pay to the taxpayer the unclaimed amount of the  
29 refund, if any;

30           (3) send a copy of the protest to the claimant  
31 state for determination of the protest on its merits in  
32 accordance with the laws of that state; and

33           (4) pay over to the taxpayer the impounded amount  
34 if the claimant state shall fail, within 45 days after

1 the date of the protest, to re-certify to the Director  
2 (i) that the claimant state has reviewed the issues  
3 raised by taxpayer, (ii) that all administrative and  
4 judicial remedies provided under the laws of that state  
5 have been exhausted, and (iii) the amount of the income  
6 tax liability finally determined to be due.

7 (g) Certification as prima facie evidence. If the  
8 taxpayer requests a hearing pursuant to Section 910 of this  
9 Act, the certification of the tax officer shall be prima  
10 facie evidence of the correctness of the taxpayer's  
11 delinquent income tax liability to the certifying state.

12 (h) Rights of spouses to refunds from joint returns. If  
13 a certification is based upon the tax debt of only one  
14 taxpayer and if the refund is based upon a joint personal  
15 income tax return, the nondebtor spouse shall have the right  
16 to:

17 (1) notification, as provided in subsection (e) of  
18 this Section;

19 (2) protest, as to the withholding of such spouse's  
20 share of the refund, as provided in subsection (f) of  
21 this Section; and

22 (3) payment of his or her share of the refund,  
23 provided the amount of the overpayment refunded to the  
24 spouse shall not exceed the amount of the joint  
25 overpayment.

26 (i) Withholding and payment of refund. Subject to the  
27 taxpayer's rights of notice and protest, upon receipt of a  
28 request for withholding in accordance with subsection (b) of  
29 this Section, the Director shall:

30 (1) withhold any refund that is certified by the  
31 tax officer;

32 (2) pay to the claimant state the entire refund or  
33 the amount certified, whichever is less;

34 (3) pay any refund in excess of the amount

1 certified to the taxpayer; and

2 (4) if a refund is less than the amount certified,  
3 withhold amounts from subsequent refunds due the  
4 taxpayer, if the laws of the claimant state provide that  
5 the claimant state shall withhold subsequent refunds of  
6 taxpayers certified to that state by the Director.

7 (j) Determination that withholding cannot be made.  
8 After receiving a certification from a tax officer, the  
9 Director shall notify the claimant state if the Director  
10 determines that a withholding cannot be made.

11 (k) Director's authority. The Director shall have the  
12 authority to enter into agreements with the tax officers of  
13 claimant state relating to:

14 (1) procedures and methods to be employed by a  
15 claimant state with respect to the operation of this  
16 Section;

17 (2) safeguards against the disclosure or  
18 inappropriate use of any information obtained or  
19 maintained pursuant to this Section that identifies,  
20 directly or indirectly, a particular taxpayer;

21 (3) a minimum tax debt, amounts below which, in  
22 light of administrative expenses and efficiency, shall,  
23 in the Director's discretion, not be subject to the  
24 withholding procedures set forth in this Section.

25 (l) Remedy not exclusive. The collection procedures  
26 prescribed by this Section are in addition to, and not in  
27 substitution for, any other remedy available by law.

28 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)  
29 Sec. 1501. Definitions.

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

33 (1) Business income. The term "business income"

1 means income arising from transactions and activity in  
2 the regular course of the taxpayer's trade or business,  
3 net of the deductions allocable thereto, and includes  
4 income from tangible and intangible property if the  
5 acquisition, management, and disposition of the property  
6 constitute integral parts of the taxpayer's regular trade  
7 or business operations. Such term does not include  
8 compensation or the deductions allocable thereto. For  
9 each taxable year beginning on or after January 1, 2002,  
10 a taxpayer may elect to treat all income other than  
11 compensation as business income. This election shall be  
12 made in accordance with rules adopted by the Department  
13 and, once made, shall be irrevocable.

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

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

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

26 (5) Department. The term "Department" means the  
27 Department of Revenue of this State.

28 (6) Director. The term "Director" means the  
29 Director of Revenue of this State.

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

34 (8) Financial organization.



1           (A) The term "financial organization" means  
2 any bank, bank holding company, trust company,  
3 savings bank, industrial bank, land bank, safe  
4 deposit company, private banker, savings and loan  
5 association, building and loan association, credit  
6 union, currency exchange, cooperative bank, small  
7 loan company, sales finance company, investment  
8 company, or any person which is owned by a bank or  
9 bank holding company. For the purpose of this  
10 Section a "person" will include only those persons  
11 which a bank holding company may acquire and hold an  
12 interest in, directly or indirectly, under the  
13 provisions of the Bank Holding Company Act of 1956  
14 (12 U.S.C. 1841, et seq.), except where interests in  
15 any person must be disposed of within certain  
16 required time limits under the Bank Holding Company  
17 Act of 1956.

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

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

28           (i) A person primarily engaged in one or  
29 more of the following businesses: the business  
30 of purchasing customer receivables, the  
31 business of making loans upon the security of  
32 customer receivables, the business of making  
33 loans for the express purpose of funding  
34 purchases of tangible personal property or

1 services by the borrower, or the business of  
2 finance leasing. For purposes of this item  
3 (i), "customer receivable" means:

4 (a) a retail installment contract or  
5 retail charge agreement within the meaning of  
6 the Sales Finance Agency Act, the Retail  
7 Installment Sales Act, or the Motor Vehicle  
8 Retail Installment Sales Act;

9 (b) an installment, charge, credit, or  
10 similar contract or agreement arising from the  
11 sale of tangible personal property or services  
12 in a transaction involving a deferred payment  
13 price payable in one or more installments  
14 subsequent to the sale; or

15 (c) the outstanding balance of a contract  
16 or agreement described in provisions (a) or (b)  
17 of this item (i).

18 A customer receivable need not provide for  
19 payment of interest on deferred payments. A sales  
20 finance company may purchase a customer receivable  
21 from, or make a loan secured by a customer  
22 receivable to, the seller in the original  
23 transaction or to a person who purchased the  
24 customer receivable directly or indirectly from that  
25 seller.

26 (ii) A corporation meeting each of the  
27 following criteria:

28 (a) the corporation must be a member of  
29 an "affiliated group" within the meaning of  
30 Section 1504(a) of the Internal Revenue Code,  
31 determined without regard to Section 1504(b) of  
32 the Internal Revenue Code;

33 (b) more than 50% of the gross income of  
34 the corporation for the taxable year must be

1 interest income derived from qualifying loans.  
2 A "qualifying loan" is a loan made to a member  
3 of the corporation's affiliated group that  
4 originates customer receivables (within the  
5 meaning of item (i)) or to whom customer  
6 receivables originated by a member of the  
7 affiliated group have been transferred, to the  
8 extent the average outstanding balance of loans  
9 from that corporation to members of its  
10 affiliated group during the taxable year do not  
11 exceed the limitation amount for that  
12 corporation. The "limitation amount" for a  
13 corporation is the average outstanding balances  
14 during the taxable year of customer receivables  
15 (within the meaning of item (i)) originated by  
16 all members of the affiliated group. If the  
17 average outstanding balances of the loans made  
18 by a corporation to members of its affiliated  
19 group exceed the limitation amount, the  
20 interest income of that corporation from  
21 qualifying loans shall be equal to its interest  
22 income from loans to members of its affiliated  
23 groups times a fraction equal to the limitation  
24 amount divided by the average outstanding  
25 balances of the loans made by that corporation  
26 to members of its affiliated group;

27 (c) the total of all shareholder's equity  
28 (including, without limitation, paid-in capital  
29 on common and preferred stock and retained  
30 earnings) of the corporation plus the total of  
31 all of its loans, advances, and other  
32 obligations payable or owed to members of its  
33 affiliated group may not exceed 20% of the  
34 total assets of the corporation at any time

1           during the tax year; and

2                   (d) more than 50% of all interest-bearing  
3           obligations of the affiliated group payable to  
4           persons outside the group determined in  
5           accordance with generally accepted accounting  
6           principles must be obligations of the  
7           corporation.

8           This amendatory Act of the 91st General Assembly is  
9           declaratory of existing law.

10                   (D) Subparagraphs (B) and (C) of this  
11           paragraph are declaratory of existing law and apply  
12           retroactively, for all tax years beginning on or  
13           before December 31, 1996, to all original returns,  
14           to all amended returns filed no later than 30 days  
15           after the effective date of this amendatory Act of  
16           1996, and to all notices issued on or before the  
17           effective date of this amendatory Act of 1996 under  
18           subsection (a) of Section 903, subsection (a) of  
19           Section 904, subsection (e) of Section 909, or  
20           Section 912. A taxpayer that is a "financial  
21           organization" that engages in any transaction with  
22           an affiliate shall be a "financial organization" for  
23           all purposes of this Act.

24                   (E) For all tax years beginning on or before  
25           December 31, 1996, a taxpayer that falls within the  
26           definition of a "financial organization" under  
27           subparagraphs (B) or (C) of this paragraph, but who  
28           does not fall within the definition of a "financial  
29           organization" under the Proposed Regulations issued  
30           by the Department of Revenue on July 19, 1996, may  
31           irrevocably elect to apply the Proposed Regulations  
32           for all of those years as though the Proposed  
33           Regulations had been lawfully promulgated, adopted,  
34           and in effect for all of those years. For purposes

1 of applying subparagraphs (B) or (C) of this  
2 paragraph to all of those years, the election  
3 allowed by this subparagraph applies only to the  
4 taxpayer making the election and to those members of  
5 the taxpayer's unitary business group who are  
6 ordinarily required to apportion business income  
7 under the same subsection of Section 304 of this Act  
8 as the taxpayer making the election. No election  
9 allowed by this subparagraph shall be made under a  
10 claim filed under subsection (d) of Section 909 more  
11 than 30 days after the effective date of this  
12 amendatory Act of 1996.

13 (F) Finance Leases. For purposes of this  
14 subsection, a finance lease shall be treated as a  
15 loan or other extension of credit, rather than as a  
16 lease, regardless of how the transaction is  
17 characterized for any other purpose, including the  
18 purposes of any regulatory agency to which the  
19 lessor is subject. A finance lease is any  
20 transaction in the form of a lease in which the  
21 lessee is treated as the owner of the leased asset  
22 entitled to any deduction for depreciation allowed  
23 under Section 167 of the Internal Revenue Code.

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

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

31 (11) Internal Revenue Code. The term "Internal  
32 Revenue Code" means the United States Internal Revenue  
33 Code of 1954 or any successor law or laws relating to  
34 federal income taxes in effect for the taxable year.

1           (12) Mathematical error. The term "mathematical  
2 error" includes the following types of errors, omissions,  
3 or defects in a return filed by a taxpayer which prevents  
4 acceptance of the return as filed for processing:

5                   (A) arithmetic errors or incorrect  
6 computations on the return or supporting schedules;

7                   (B) entries on the wrong lines;

8                   (C) omission of required supporting forms or  
9 schedules or the omission of the information in  
10 whole or in part called for thereon; and

11                   (D) an attempt to claim, exclude, deduct, or  
12 improperly report, in a manner directly contrary to  
13 the provisions of the Act and regulations thereunder  
14 any item of income, exemption, deduction, or credit.

15           (13) Nonbusiness income. The term "nonbusiness  
16 income" means all income other than business income or  
17 compensation.

18           (14) Nonresident. The term "nonresident" means a  
19 person who is not a resident.

20           (15) Paid, incurred and accrued. The terms "paid",  
21 "incurred" and "accrued" shall be construed according to  
22 the method of accounting upon the basis of which the  
23 person's base income is computed under this Act.

24           (16) Partnership and partner. The term  
25 "partnership" includes a syndicate, group, pool, joint  
26 venture or other unincorporated organization, through or  
27 by means of which any business, financial operation, or  
28 venture is carried on, and which is not, within the  
29 meaning of this Act, a trust or estate or a corporation;  
30 and the term "partner" includes a member in such  
31 syndicate, group, pool, joint venture or organization.

32           The term "partnership" includes any entity,  
33 including a limited liability company formed under the  
34 Illinois Limited Liability Company Act, classified as a

1 partnership for federal income tax purposes.

2 The term "partnership" does not include a syndicate,  
3 group, pool, joint venture, or other unincorporated  
4 organization established for the sole purpose of playing  
5 the Illinois State Lottery.

6 (17) Part-year resident. The term "part-year  
7 resident" means an individual who became a resident  
8 during the taxable year or ceased to be a resident during  
9 the taxable year. Under Section 1501 (a) (20) (A) (i)  
10 residence commences with presence in this State for other  
11 than a temporary or transitory purpose and ceases with  
12 absence from this State for other than a temporary or  
13 transitory purpose. Under Section 1501 (a) (20) (A) (ii)  
14 residence commences with the establishment of domicile in  
15 this State and ceases with the establishment of domicile  
16 in another State.

17 (18) Person. The term "person" shall be construed  
18 to mean and include an individual, a trust, estate,  
19 partnership, association, firm, company, corporation,  
20 limited liability company, or fiduciary. For purposes of  
21 Section 1301 and 1302 of this Act, a "person" means (i)  
22 an individual, (ii) a corporation, (iii) an officer,  
23 agent, or employee of a corporation, (iv) a member, agent  
24 or employee of a partnership, or (v) a member, manager,  
25 employee, officer, director, or agent of a limited  
26 liability company who in such capacity commits an offense  
27 specified in Section 1301 and 1302.

28 (18A) Records. The term "records" includes all  
29 data maintained by the taxpayer, whether on paper,  
30 microfilm, microfiche, or any type of machine-sensible  
31 data compilation.

32 (19) Regulations. The term "regulations" includes  
33 rules promulgated and forms prescribed by the Department.

34 (20) Resident. The term "resident" means:

1           (A) an individual (i) who is in this State for  
2 other than a temporary or transitory purpose during  
3 the taxable year; or (ii) who is domiciled in this  
4 State but is absent from the State for a temporary  
5 or transitory purpose during the taxable year;

6           (B) The estate of a decedent who at his or her  
7 death was domiciled in this State;

8           (C) A trust created by a will of a decedent  
9 who at his death was domiciled in this State; and

10           (D) An irrevocable trust, the grantor of which  
11 was domiciled in this State at the time such trust  
12 became irrevocable. For purpose of this  
13 subparagraph, a trust shall be considered  
14 irrevocable to the extent that the grantor is not  
15 treated as the owner thereof under Sections 671  
16 through 678 of the Internal Revenue Code.

17           (21) Sales. The term "sales" means all gross  
18 receipts of the taxpayer not allocated under Sections  
19 301, 302 and 303.

20           (22) State. The term "state" when applied to a  
21 jurisdiction other than this State means any state of the  
22 United States, the District of Columbia, the Commonwealth  
23 of Puerto Rico, any Territory or Possession of the United  
24 States, and any foreign country, or any political  
25 subdivision of any of the foregoing. For purposes of the  
26 foreign tax credit under Section 601, the term "state"  
27 means any state of the United States, the District of  
28 Columbia, the Commonwealth of Puerto Rico, and any  
29 territory or possession of the United States, or any  
30 political subdivision of any of the foregoing, effective  
31 for tax years ending on or after December 31, 1989.

32           (23) Taxable year. The term "taxable year" means  
33 the calendar year, or the fiscal year ending during such  
34 calendar year, upon the basis of which the base income is



1        computed under this Act. "Taxable year" means, in the  
2        case of a return made for a fractional part of a year  
3        under the provisions of this Act, the period for which  
4        such return is made.

5            (24) Taxpayer. The term "taxpayer" means any person  
6        subject to the tax imposed by this Act.

7            (25) International banking facility. The term  
8        international banking facility shall have the same  
9        meaning as is set forth in the Illinois Banking Act or as  
10       is set forth in the laws of the United States or  
11       regulations of the Board of Governors of the Federal  
12       Reserve System.

13           (26) Income Tax Return Preparer.

14            (A) The term "income tax return preparer"  
15        means any person who prepares for compensation, or  
16        who employs one or more persons to prepare for  
17        compensation, any return of tax imposed by this Act  
18        or any claim for refund of tax imposed by this Act.  
19        The preparation of a substantial portion of a return  
20        or claim for refund shall be treated as the  
21        preparation of that return or claim for refund.

22            (B) A person is not an income tax return  
23        preparer if all he or she does is

24                    (i) furnish typing, reproducing, or other  
25                    mechanical assistance;

26                    (ii) prepare returns or claims for  
27                    refunds for the employer by whom he or she is  
28                    regularly and continuously employed;

29                    (iii) prepare as a fiduciary returns or  
30                    claims for refunds for any person; or

31                    (iv) prepare claims for refunds for a  
32                    taxpayer in response to any notice of  
33                    deficiency issued to that taxpayer or in  
34                    response to any waiver of restriction after the

1 commencement of an audit of that taxpayer or of  
2 another taxpayer if a determination in the  
3 audit of the other taxpayer directly or  
4 indirectly affects the tax liability of the  
5 taxpayer whose claims he or she is preparing.

6 (27) Unitary business group. The term "unitary  
7 business group" means a group of persons related through  
8 common ownership whose business activities are integrated  
9 with, dependent upon and contribute to each other. The  
10 group will not include those members whose business  
11 activity outside the United States is 80% or more of any  
12 such member's total business activity; for purposes of  
13 this paragraph and clause (a) (3) (B) (ii) of Section  
14 304, business activity within the United States shall be  
15 measured by means of the factors ordinarily applicable  
16 under subsections (a), (b), (c), (d), or (h) of Section  
17 304 except that, in the case of members ordinarily  
18 required to apportion business income by means of the 3  
19 factor formula of property, payroll and sales specified  
20 in subsection (a) of Section 304, including the formula  
21 as weighted in subsection (h) of Section 304, such  
22 members shall not use the sales factor in the computation  
23 and the results of the property and payroll factor  
24 computations of subsection (a) of Section 304 shall be  
25 divided by 2 (by one if either the property or payroll  
26 factor has a denominator of zero). The computation  
27 required by the preceding sentence shall, in each case,  
28 involve the division of the member's property, payroll,  
29 or revenue miles in the United States, insurance premiums  
30 on property or risk in the United States, or financial  
31 organization business income from sources within the  
32 United States, as the case may be, by the respective  
33 worldwide figures for such items. Common ownership in  
34 the case of corporations is the direct or indirect

1 control or ownership of more than 50% of the outstanding  
2 voting stock of the persons carrying on unitary business  
3 activity. Unitary business activity can ordinarily be  
4 illustrated where the activities of the members are: (1)  
5 in the same general line (such as manufacturing,  
6 wholesaling, retailing of tangible personal property,  
7 insurance, transportation or finance); or (2) are steps  
8 in a vertically structured enterprise or process (such as  
9 the steps involved in the production of natural  
10 resources, which might include exploration, mining,  
11 refining, and marketing); and, in either instance, the  
12 members are functionally integrated through the exercise  
13 of strong centralized management (where, for example,  
14 authority over such matters as purchasing, financing, tax  
15 compliance, product line, personnel, marketing and  
16 capital investment is not left to each member). In no  
17 event, however, will any unitary business group include  
18 members which are ordinarily required to apportion  
19 business income under different subsections of Section  
20 304 except that for tax years ending on or after December  
21 31, 1987 this prohibition shall not apply to a unitary  
22 business group composed of one or more taxpayers all of  
23 which apportion business income pursuant to subsection  
24 (b) of Section 304, or all of which apportion business  
25 income pursuant to subsection (d) of Section 304, and a  
26 holding company of such single-factor taxpayers (see  
27 definition of "financial organization" for rule regarding  
28 holding companies of financial organizations). If a  
29 unitary business group would, but for the preceding  
30 sentence, include members that are ordinarily required to  
31 apportion business income under different subsections of  
32 Section 304, then for each subsection of Section 304 for  
33 which there are two or more members, there shall be a  
34 separate unitary business group composed of such members.

1 For purposes of the preceding two sentences, a member is  
2 "ordinarily required to apportion business income" under  
3 a particular subsection of Section 304 if it would be  
4 required to use the apportionment method prescribed by  
5 such subsection except for the fact that it derives  
6 business income solely from Illinois. If the unitary  
7 business group members' accounting periods differ, the  
8 common parent's accounting period or, if there is no  
9 common parent, the accounting period of the member that  
10 is expected to have, on a recurring basis, the greatest  
11 Illinois income tax liability must be used to determine  
12 whether to use the apportionment method provided in  
13 subsection (a) or subsection (h) of Section 304. The  
14 prohibition against membership in a unitary business  
15 group for taxpayers ordinarily required to apportion  
16 income under different subsections of Section 304 does  
17 not apply to taxpayers required to apportion income under  
18 subsection (a) and subsection (h) of Section 304. The  
19 provisions of this amendatory Act of 1998 apply to tax  
20 years ending on or after December 31, 1998.

21 (28) Subchapter S corporation. The term  
22 "Subchapter S corporation" means a corporation for which  
23 there is in effect an election under Section 1362 of the  
24 Internal Revenue Code, or for which there is a federal  
25 election to opt out of the provisions of the Subchapter S  
26 Revision Act of 1982 and have applied instead the prior  
27 federal Subchapter S rules as in effect on July 1, 1982.

28 (b) Other definitions.

29 (1) Words denoting number, gender, and so forth,  
30 when used in this Act, where not otherwise distinctly  
31 expressed or manifestly incompatible with the intent  
32 thereof:

33 (A) Words importing the singular include and  
34 apply to several persons, parties or things;

1 (B) Words importing the plural include the  
2 singular; and

3 (C) Words importing the masculine gender  
4 include the feminine as well.

5 (2) "Company" or "association" as including  
6 successors and assigns. The word "company" or  
7 "association", when used in reference to a corporation,  
8 shall be deemed to embrace the words "successors and  
9 assigns of such company or association", and in like  
10 manner as if these last-named words, or words of similar  
11 import, were expressed.

12 (3) Other terms. Any term used in any Section of  
13 this Act with respect to the application of, or in  
14 connection with, the provisions of any other Section of  
15 this Act shall have the same meaning as in such other  
16 Section.

17 (Source: P.A. 90-613, eff. 7-9-98; 91-535, eff. 1-1-00;  
18 91-913, eff. 1-1-01.)"; and

19 by replacing Section 99 of the bill with the following:

20 "Section 99. Effective date. This Act takes effect on  
21 January 1, 2002, except that this Section and the changes  
22 made to Sections 201, 202, 203, 209, 502, 506, 701, 905, 911,  
23 and 1501 of the Illinois Income Tax Act take effect upon  
24 becoming law."