

AN ACT concerning revenue.

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

ARTICLE 10. AMENDATORY PROVISIONS

Section 10-3. The State Finance Act is amended by changing
Section 6z-81 as follows:

(30 ILCS 105/6z-81)

Sec. 6z-81. Healthcare Provider Relief Fund.

(a) There is created in the State treasury a special fund
to be known as the Healthcare Provider Relief Fund.

(b) The Fund is created for the purpose of receiving and
disbursing moneys in accordance with this Section.
Disbursements from the Fund shall be made only as follows:

(1) Subject to appropriation, for payment by the
Department of Healthcare and Family Services or by the
Department of Human Services of medical bills and related
expenses, including administrative expenses, for which the
State is responsible under Titles XIX and XXI of the Social
Security Act, the Illinois Public Aid Code, the Children's
Health Insurance Program Act, the Covering ALL KIDS Health
Insurance Act, and the Long Term Acute Care Hospital
Quality Improvement Transfer Program Act.

(2) For repayment of funds borrowed from other State funds or from outside sources, including interest thereon.

(3) For State fiscal years 2017, 2018, and 2019, for making payments to the human poison control center pursuant to Section 12-4.105 of the Illinois Public Aid Code.

(c) The Fund shall consist of the following:

(1) Moneys received by the State from short-term borrowing pursuant to the Short Term Borrowing Act on or after the effective date of Public Act 96-820.

(2) All federal matching funds received by the Illinois Department of Healthcare and Family Services as a result of expenditures made by the Department that are attributable to moneys deposited in the Fund.

(3) All federal matching funds received by the Illinois Department of Healthcare and Family Services as a result of federal approval of Title XIX State plan amendment transmittal number 07-09.

(3.5) Proceeds from the assessment authorized under Article V-H of the Public Aid Code.

(4) All other moneys received for the Fund from any other source, including interest earned thereon.

(5) All federal matching funds received by the Illinois Department of Healthcare and Family Services as a result of expenditures made by the Department for Medical Assistance from the General Revenue Fund, the Tobacco Settlement Recovery Fund, the Long-Term Care Provider Fund, and the

Drug Rebate Fund related to individuals eligible for medical assistance pursuant to the Patient Protection and Affordable Care Act (P.L. 111-148) and Section 5-2 of the Illinois Public Aid Code.

(d) In addition to any other transfers that may be provided for by law, on the effective date of Public Act 97-44, or as soon thereafter as practical, the State Comptroller shall direct and the State Treasurer shall transfer the sum of \$365,000,000 from the General Revenue Fund into the Healthcare Provider Relief Fund.

(e) In addition to any other transfers that may be provided for by law, on July 1, 2011, or as soon thereafter as practical, the State Comptroller shall direct and the State Treasurer shall transfer the sum of \$160,000,000 from the General Revenue Fund to the Healthcare Provider Relief Fund.

(f) Notwithstanding any other State law to the contrary, and in addition to any other transfers that may be provided for by law, the State Comptroller shall order transferred and the State Treasurer shall transfer \$500,000,000 to the Healthcare Provider Relief Fund from the General Revenue Fund in equal monthly installments of \$100,000,000, with the first transfer to be made on July 1, 2012, or as soon thereafter as practical, and with each of the remaining transfers to be made on August 1, 2012, September 1, 2012, October 1, 2012, and November 1, 2012, or as soon thereafter as practical. This transfer may assist the Department of Healthcare and Family Services in

improving Medical Assistance bill processing timeframes or in meeting the possible requirements of Senate Bill 3397, or other similar legislation, of the 97th General Assembly should it become law.

(g) Notwithstanding any other State law to the contrary, and in addition to any other transfers that may be provided for by law, on July 1, 2013, or as soon thereafter as may be practical, the State Comptroller shall direct and the State Treasurer shall transfer the sum of \$601,000,000 from the General Revenue Fund to the Healthcare Provider Relief Fund.

(Source: P.A. 99-516, eff. 6-30-16; 100-587, eff. 6-4-18.)

Section 10-5. The Illinois Income Tax Act is amended by changing Section 203 as follows:

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

Sec. 203. Base income defined.

(a) Individuals.

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

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

(A) An amount equal to all amounts paid or accrued

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

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

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

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

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

(D-10) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the individual deducted in computing adjusted gross income and for which the individual claims a credit under subsection (1) of Section 201;

(D-15) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

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

If the taxpayer continues to own property through

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

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

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

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

This paragraph shall not apply to the following:

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

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

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

(b) the transaction giving rise to the interest expense between the taxpayer and the

person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

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

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

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

under Section 404 of this Act;

(D-18) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect

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

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting,

to a tax on or measured by net income with respect to such item; or

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

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

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

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

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

(D-19) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under

Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) or Section 203(a)(2)(D-18) of this Act.

(D-20) For taxable years beginning on or after January 1, 2002 and ending on or before December 31, 2006, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act or (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B). For taxable years beginning on or after January 1, 2007, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act, (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, or (iii) a distribution from a qualified tuition program under

Section 529 of the Internal Revenue Code that (I) adopts and determines that its offering materials comply with the College Savings Plans Network's disclosure principles and (II) has made reasonable efforts to inform in-state residents of the existence of in-state qualified tuition programs by informing Illinois residents directly and, where applicable, to inform financial intermediaries distributing the program to inform in-state residents of the existence of in-state qualified tuition programs at least annually, an amount equal to the amount excluded from gross income under Section 529(c) (3) (B) .

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

(D-20.5) For taxable years beginning on or after January 1, 2018, in the case of a distribution from a

qualified ABLE program under Section 529A of the Internal Revenue Code, other than a distribution from a qualified ABLE program created under Section 16.6 of the State Treasurer Act, an amount equal to the amount excluded from gross income under Section 529A(c)(1)(B) of the Internal Revenue Code;

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

(D-21.5) For taxable years beginning on or after January 1, 2018, in the case of the transfer of moneys from a qualified tuition program under Section 529 or a qualified ABLE program under Section 529A of the Internal Revenue Code that is administered by this State to an ABLE account established under an out-of-state ABLE account program, an amount equal to the contribution component of the transferred amount that was previously deducted from base income under subsection (a)(2)(Y) or subsection (a)(2)(HH) of this Section;

(D-22) For taxable years beginning on or after January 1, 2009, and prior to January 1, 2018, in the

case of a nonqualified withdrawal or refund of moneys from a qualified tuition program under Section 529 of the Internal Revenue Code administered by the State that is not used for qualified expenses at an eligible education institution, an amount equal to the contribution component of the nonqualified withdrawal or refund that was previously deducted from base income under subsection (a)(2)(y) of this Section, provided that the withdrawal or refund did not result from the beneficiary's death or disability. For taxable years beginning on or after January 1, 2018: (1) in the case of a nonqualified withdrawal or refund, as defined under Section 16.5 of the State Treasurer Act, of moneys from a qualified tuition program under Section 529 of the Internal Revenue Code administered by the State, an amount equal to the contribution component of the nonqualified withdrawal or refund that was previously deducted from base income under subsection (a)(2)(Y) of this Section, and (2) in the case of a nonqualified withdrawal or refund from a qualified ABLE program under Section 529A of the Internal Revenue Code administered by the State that is not used for qualified disability expenses, an amount equal to the contribution component of the nonqualified withdrawal or refund that was previously deducted from base income under subsection (a)(2)(HH) of this Section;

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

(D-24) For taxable years ending on or after December 31, 2017, an amount equal to the deduction allowed under Section 199 of the Internal Revenue Code for the taxable year;

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

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

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

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

(G) The valuation limitation amount;

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

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

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

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

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

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

(N) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the

United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

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

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

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

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

(S) An amount, to the extent included in adjusted gross income, equal to the amount of a contribution made in the taxable year on behalf of the taxpayer to a

medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 to the extent the contribution is accepted by the account administrator as provided in that Act;

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

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

(V) Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 2004, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the

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

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

(X) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the

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

public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

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

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

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

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

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

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

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted

basis was taken, "x" equals "y" multiplied by 1.0.

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

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

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

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

This subparagraph (AA) is exempt from the

provisions of Section 250;

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

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

(DD) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for

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

(EE) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited

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

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

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

the election provided for by this subparagraph (GG), the insurer to which the premiums were paid must add back to income the amount subtracted by the taxpayer pursuant to this subparagraph (GG). This subparagraph (GG) is exempt from the provisions of Section 250; and

(HH) For taxable years beginning on or after January 1, 2018 and prior to January 1, 2023, a maximum of \$10,000 contributed in the taxable year to a qualified ABLE account under Section 16.6 of the State Treasurer Act, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) or Section 529A(c)(1)(C) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (HH). For purposes of this subparagraph (HH), contributions made by an employer on behalf of an employee, or matching contributions made by an employee, shall be treated as made by the employee.

(b) Corporations.

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

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

(A) An amount equal to all amounts paid or accrued

to the taxpayer as interest and all distributions received from regulated investment companies during the taxable year to the extent excluded from gross income in the computation of taxable income;

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

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

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

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e),

the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such earlier taxable year, with the following limitations applied in the order that they are listed:

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

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

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

(E-5) For taxable years ending after December 31,

1997, an amount equal to any eligible remediation costs that the corporation deducted in computing adjusted gross income and for which the corporation claims a credit under subsection (l) of Section 201;

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

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

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

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

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

incurred.

This paragraph shall not apply to the following:

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

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

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

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

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or

agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

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

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

(E-13) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the

foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses,

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

This paragraph shall not apply to the following:

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

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

(a) the person during the same taxable

year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

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

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

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

under Section 404 of this Act;

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

Section 203(b) (2) (E-13) of this Act;

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

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

(E-17) For taxable years ending on or after December 31, 2017, an amount equal to the deduction allowed under Section 199 of the Internal Revenue Code for the taxable year;

(E-18) for taxable years beginning after December 31, 2018, an amount equal to the deduction allowed under Section 250(a) (1) (A) of the Internal Revenue Code for the taxable year.

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

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

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

(H) In the case of a regulated investment company,

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

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

the case of a life insurance company allowed a deduction for an increase in reserves for the tax year); the provisions of this subparagraph are exempt from the provisions of Section 250;

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

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

(L) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided

that dividends eligible for the deduction provided in subparagraph (K) of paragraph 2 of this subsection shall not be eligible for the deduction provided under this subparagraph (L);

(M) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the River Edge Redevelopment Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(f) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(f) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in the River Edge Redevelopment Zone. The subtraction modification available to the taxpayer in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence. This subparagraph (M) is exempt from the provisions of Section 250;

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

(N) Two times any contribution made during the

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

(O) An amount equal to: (i) 85% for taxable years ending on or before December 31, 1992, or, a percentage equal to the percentage allowable under Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 1992, of the amount by which dividends included in taxable income and received from a corporation that is not created or organized under the laws of the United States or any state or political subdivision thereof, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 965 of the Internal Revenue Code, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends, and including, for taxable years ending on or after

December 31, 2008, dividends received from a captive real estate investment trust; plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code and including, for taxable years ending on or after December 31, 2008, dividends received from a captive real estate investment trust, from any such corporation specified in clause (i) that would but for the provisions of Section 1504(b)(3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends. This subparagraph (O) is exempt from the provisions of Section 250 of this Act;

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

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

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

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

(T) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return

under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

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

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

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

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

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

The aggregate amount deducted under this

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

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

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

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

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

(V) The amount of: (i) any interest income (net of the deductions allocable thereto) taken into account

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

(W) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to

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

(X) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person

who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-13) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person. This subparagraph (X) is exempt from the provisions of Section 250;

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

(Y) is exempt from the provisions of Section 250; and

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

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

(c) Trusts and estates.

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

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

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

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

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

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

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

they are listed:

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

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

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

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

Act;

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

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

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

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

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer

was allowed in any taxable year to make a subtraction modification under subparagraph (R), then an amount equal to that subtraction modification.

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

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

taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

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

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

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

(b) the transaction giving rise to the interest expense between the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid

pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

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

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

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

(G-13) An amount equal to the amount of intangible

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

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

This paragraph shall not apply to the following:

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

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

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

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

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

Nothing in this subsection shall preclude the Director from making any other adjustment

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

(G-14) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78

of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) or Section 203(c)(2)(G-13) of this Act;

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

(G-16) For taxable years ending on or after December 31, 2017, an amount equal to the deduction allowed under Section 199 of the Internal Revenue Code for the taxable year;

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

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

Internal Revenue Code and regulations adopted pursuant thereto;

(I) The valuation limitation amount;

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

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

(L) With the exception of any amounts subtracted under subparagraph (K), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a)(2) and 265(a)(2) of the Internal Revenue Code, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(a)(1) ~~265(1)~~ of the Internal Revenue Code; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the

Internal Revenue Code, plus, (iii) for taxable years ending on or after December 31, 2011, Section 45G(e) (3) of the Internal Revenue Code and, for taxable years ending on or after December 31, 2008, any amount included in gross income under Section 87 of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

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

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

(O) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection

shall not be eligible for the deduction provided under this subparagraph (O);

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

(Q) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II;

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

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

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

the bonus depreciation deduction;

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

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

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

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

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

(S) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer

was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.

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

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

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

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

is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification. This subparagraph (T) is exempt from the provisions of Section 250;

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

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

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

of taxable income. This subparagraph (W) is exempt from Section 250;

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

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

(Z) For taxable years beginning after December 31, 2018 and before January 1, 2026, the amount of excess business loss of the taxpayer disallowed as a deduction by Section 461(1)(1)(B) of the Internal Revenue Code.

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

(d) Partnerships.

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

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

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

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

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

(D) An amount equal to the amount of the capital

gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable income;

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

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

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

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

(D-7) An amount equal to the amount otherwise

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

(D-8) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United

States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(d)(2)(D-7) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or

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

This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

(D-11) For taxable years ending on or after December 31, 2017, an amount equal to the deduction allowed under Section 199 of the Internal Revenue Code for the taxable year;

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

(E) The valuation limitation amount;

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

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

(H) Any income of the partnership which constitutes personal service income as defined in

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

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

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

years ending on or after December 31, 2008, any amount included in gross income under Section 87 of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

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

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

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

(N) An amount equal to the amount of the deduction

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

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

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

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

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

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by

30 and then divided by 70 (or "y" multiplied by 0.429); and

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

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

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

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

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

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

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

(R) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a

member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-7) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (R) is exempt from Section 250;

(S) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business

group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-8) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (S) is exempt from Section 250; and

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

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

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

addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

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

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

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

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

(D) Real estate investment trusts. In the case of a

real estate investment trust subject to the tax imposed by Section 857 of the Internal Revenue Code, real estate investment trust taxable income;

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

(F) Cooperatives. In the case of a cooperative corporation or association, the taxable income of such organization determined in accordance with the provisions of Section 1381 through 1388 of the Internal Revenue Code, but without regard to the prohibition against offsetting losses from patronage activities against income from nonpatronage activities; except that a cooperative corporation or association may make an election to follow its federal income tax treatment of patronage losses and nonpatronage losses. In the event such election is made, such losses shall be

computed and carried over in a manner consistent with subsection (a) of Section 207 of this Act and apportioned by the apportionment factor reported by the cooperative on its Illinois income tax return filed for the taxable year in which the losses are incurred. The election shall be effective for all taxable years with original returns due on or after the date of the election. In addition, the cooperative may file an amended return or returns, as allowed under this Act, to provide that the election shall be effective for losses incurred or carried forward for taxable years occurring prior to the date of the election. Once made, the election may only be revoked upon approval of the Director. The Department shall adopt rules setting forth requirements for documenting the elections and any resulting Illinois net loss and the standards to be used by the Director in evaluating requests to revoke elections. Public Act 96-932 is declaratory of existing law;

(G) Subchapter S corporations. In the case of: (i) a Subchapter S corporation for which there is in effect an election for the taxable year under Section 1362 of the Internal Revenue Code, the taxable income of such corporation determined in accordance with Section 1363(b) of the Internal Revenue Code, except that taxable income shall take into account those items

which are required by Section 1363(b)(1) of the Internal Revenue Code to be separately stated; and (ii) a Subchapter S corporation for which there is in effect a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982, the taxable income of such corporation determined in accordance with the federal Subchapter S rules as in effect on July 1, 1982; and

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

(3) Recapture of business expenses on disposition of asset or business. Notwithstanding any other law to the contrary, if in prior years income from an asset or business has been classified as business income and in a later year is demonstrated to be non-business income, then all expenses, without limitation, deducted in such later year and in the 2 immediately preceding taxable years related to that asset or business that generated the non-business income shall be added back and recaptured as business income in the year of the disposition of the asset

or business. Such amount shall be apportioned to Illinois using the greater of the apportionment fraction computed for the business under Section 304 of this Act for the taxable year or the average of the apportionment fractions computed for the business under Section 304 of this Act for the taxable year and for the 2 immediately preceding taxable years.

(f) Valuation limitation amount.

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

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

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

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

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

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

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

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

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

(Source: P.A. 100-22, eff. 7-6-17; 100-905, eff. 8-17-18; revised 10-29-18.)

Section 10-10. The Use Tax Act is amended by changing Section 2 and by adding Section 2d as follows:

(35 ILCS 105/2) (from Ch. 120, par. 439.2)

Sec. 2. Definitions.

"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, except that it does not include the sale of such property in any form as tangible personal property in the regular course of business to the extent that such property is

not first subjected to a use for which it was purchased, and does not include the use of such property by its owner for demonstration purposes: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. "Use" does not mean the demonstration use or interim use of tangible personal property by a retailer before he sells that tangible personal property. For watercraft or aircraft, if the period of demonstration use or interim use by the retailer exceeds 18 months, the retailer shall pay on the retailers' original cost price the tax imposed by this Act, and no credit for that tax is permitted if the watercraft or aircraft is subsequently sold by the retailer. "Use" does not mean the physical incorporation of tangible personal property, to the extent not first subjected to a use for which it was purchased, as an ingredient or constituent, into other tangible personal property (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing.

"Watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act, a personal watercraft, or any boat equipped with an inboard motor.

"Purchase at retail" means the acquisition of the ownership of or title to tangible personal property through a sale at retail.

"Purchaser" means anyone who, through a sale at retail, acquires the ownership of tangible personal property for a valuable consideration.

"Sale at retail" means any transfer of the ownership of or title to tangible personal property to a purchaser, for the purpose of use, and not for the purpose of resale in any form as tangible personal property to the extent not first subjected to a use for which it was purchased, for a valuable consideration: Provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or by-product of manufacturing. For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced by-product of manufacturing. "Sale at retail" includes any such transfer made for resale unless made in compliance with Section 2c of the Retailers' Occupation Tax Act, as incorporated by reference into Section 12 of this Act. Transactions whereby the possession of the property is

transferred but the seller retains the title as security for payment of the selling price are sales.

"Sale at retail" shall also be construed to include any Illinois florist's sales transaction in which the purchase order is received in Illinois by a florist and the sale is for use or consumption, but the Illinois florist has a florist in another state deliver the property to the purchaser or the purchaser's donee in such other state.

Nonreusable tangible personal property that is used by persons engaged in the business of operating a restaurant, cafeteria, or drive-in is a sale for resale when it is transferred to customers in the ordinary course of business as part of the sale of food or beverages and is used to deliver, package, or consume food or beverages, regardless of where consumption of the food or beverages occurs. Examples of those items include, but are not limited to nonreusable, paper and plastic cups, plates, baskets, boxes, sleeves, buckets or other containers, utensils, straws, placemats, napkins, doggie bags, and wrapping or packaging materials that are transferred to customers as part of the sale of food or beverages in the ordinary course of business.

The purchase, employment and transfer of such tangible personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of tangible personal property.

"Selling price" means the consideration for a sale valued

in money whether received in money or otherwise, including cash, credits, property other than as hereinafter provided, and services, but not including the value of or credit given for traded-in tangible personal property where the item that is traded-in is of like kind and character as that which is being sold, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's tax liability under the "Retailers' Occupation Tax Act", or on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit, on account of the seller's tax liability under any local occupation tax administered by the Department, or, except as otherwise provided with respect to any cigarette tax imposed by a home rule unit on account of the seller's duty to collect, from the purchasers, the tax that is imposed under any local use tax administered by the Department. Effective December 1, 1985, "selling price" shall include charges that are added to prices by sellers on account of the seller's tax liability under the Cigarette Tax Act, on account of the seller's duty to collect, from the purchaser, the tax imposed under the Cigarette Use Tax Act, and on account of the seller's

duty to collect, from the purchaser, any cigarette tax imposed by a home rule unit.

Notwithstanding any law to the contrary, for any motor vehicle, as defined in Section 1-146 of the Vehicle Code, that is sold on or after January 1, 2015 for the purpose of leasing the vehicle for a defined period that is longer than one year and (1) is a motor vehicle of the second division that: (A) is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat; (B) is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers; or (C) has a gross vehicle weight rating of 8,000 pounds or less or (2) is a motor vehicle of the first division, "selling price" or "amount of sale" means the consideration received by the lessor pursuant to the lease contract, including amounts due at lease signing and all monthly or other regular payments charged over the term of the lease. Also included in the selling price is any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, including, but not limited to, excess mileage charges and charges for excess wear and tear. For sales that occur in Illinois, with respect to any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed, the lessor who purchased the

motor vehicle does not incur the tax imposed by the Use Tax Act on those amounts, and the retailer who makes the retail sale of the motor vehicle to the lessor is not required to collect the tax imposed by this Act or to pay the tax imposed by the Retailers' Occupation Tax Act on those amounts. However, the lessor who purchased the motor vehicle assumes the liability for reporting and paying the tax on those amounts directly to the Department in the same form (Illinois Retailers' Occupation Tax, and local retailers' occupation taxes, if applicable) in which the retailer would have reported and paid such tax if the retailer had accounted for the tax to the Department. For amounts received by the lessor from the lessee that are not calculated at the time the lease is executed, the lessor must file the return and pay the tax to the Department by the due date otherwise required by this Act for returns other than transaction returns. If the retailer is entitled under this Act to a discount for collecting and remitting the tax imposed under this Act to the Department with respect to the sale of the motor vehicle to the lessor, then the right to the discount provided in this Act shall be transferred to the lessor with respect to the tax paid by the lessor for any amount received by the lessor from the lessee for the leased vehicle that is not calculated at the time the lease is executed; provided that the discount is only allowed if the return is timely filed and for amounts timely paid. The "selling price" of a motor vehicle that is sold on or after January 1, 2015 for the purpose of

leasing for a defined period of longer than one year shall not be reduced by the value of or credit given for traded-in tangible personal property owned by the lessor, nor shall it be reduced by the value of or credit given for traded-in tangible personal property owned by the lessee, regardless of whether the trade-in value thereof is assigned by the lessee to the lessor. In the case of a motor vehicle that is sold for the purpose of leasing for a defined period of longer than one year, the sale occurs at the time of the delivery of the vehicle, regardless of the due date of any lease payments. A lessor who incurs a Retailers' Occupation Tax liability on the sale of a motor vehicle coming off lease may not take a credit against that liability for the Use Tax the lessor paid upon the purchase of the motor vehicle (or for any tax the lessor paid with respect to any amount received by the lessor from the lessee for the leased vehicle that was not calculated at the time the lease was executed) if the selling price of the motor vehicle at the time of purchase was calculated using the definition of "selling price" as defined in this paragraph. Notwithstanding any other provision of this Act to the contrary, lessors shall file all returns and make all payments required under this paragraph to the Department by electronic means in the manner and form as required by the Department. This paragraph does not apply to leases of motor vehicles for which, at the time the lease is entered into, the term of the lease is not a defined period, including leases with a defined

initial period with the option to continue the lease on a month-to-month or other basis beyond the initial defined period.

The phrase "like kind and character" shall be liberally construed (including but not limited to any form of motor vehicle for any form of motor vehicle, or any kind of farm or agricultural implement for any other kind of farm or agricultural implement), while not including a kind of item which, if sold at retail by that retailer, would be exempt from retailers' occupation tax and use tax as an isolated or occasional sale.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Retailer" means and includes every person engaged in the business of making sales at retail as defined in this Section.

A person who holds himself or herself out as being engaged (or who habitually engages) in selling tangible personal property at retail is a retailer hereunder with respect to such sales (and not primarily in a service occupation) notwithstanding the fact that such person designs and produces such tangible personal property on special order for the purchaser and in such a way as to render the property of value

only to such purchaser, if such tangible personal property so produced on special order serves substantially the same function as stock or standard items of tangible personal property that are sold at retail.

A person whose activities are organized and conducted primarily as a not-for-profit service enterprise, and who engages in selling tangible personal property at retail (whether to the public or merely to members and their guests) is a retailer with respect to such transactions, excepting only a person organized and operated exclusively for charitable, religious or educational purposes either (1), to the extent of sales by such person to its members, students, patients or inmates of tangible personal property to be used primarily for the purposes of such person, or (2), to the extent of sales by such person of tangible personal property which is not sold or offered for sale by persons organized for profit. The selling of school books and school supplies by schools at retail to students is not "primarily for the purposes of" the school which does such selling. This paragraph does not apply to nor subject to taxation occasional dinners, social or similar activities of a person organized and operated exclusively for charitable, religious or educational purposes, whether or not such activities are open to the public.

A person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (P.L. 92-258) and serves meals to participants in the federal Nutrition Program

for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the federal Act is not a retailer under this Act with respect to such transactions.

Persons who engage in the business of transferring tangible personal property upon the redemption of trading stamps are retailers hereunder when engaged in such business.

The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail or a sale through a bulk vending machine does not make such person a retailer hereunder. However, any person who is engaged in a business which is not subject to the tax imposed by the "Retailers' Occupation Tax Act" because of involving the sale of or a contract to sell real estate or a construction contract to improve real estate, but who, in the course of conducting such business, transfers tangible personal property to users or consumers in the finished form in which it was purchased, and which does not become real estate, under any provision of a construction contract or real estate sale or real estate sales agreement entered into with some other person arising out of or because of such nontaxable business, is a retailer to the extent of the value of the tangible personal property so transferred. If, in such transaction, a separate charge is made for the tangible personal property so transferred, the value of

such property, for the purposes of this Act, is the amount so separately charged, but not less than the cost of such property to the transferor; if no separate charge is made, the value of such property, for the purposes of this Act, is the cost to the transferor of such tangible personal property.

"Retailer maintaining a place of business in this State", or any like term, means and includes any of the following retailers:

(1) A retailer having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State. However, the ownership of property that is located at the premises of a printer with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced shall not result in the retailer being deemed to have or maintain an office, distribution house, sales house, warehouse, or other place of business within this State.

(1.1) A retailer having a contract with a person

located in this State under which the person, for a commission or other consideration based upon the sale of tangible personal property by the retailer, directly or indirectly refers potential customers to the retailer by providing to the potential customers a promotional code or other mechanism that allows the retailer to track purchases referred by such persons. Examples of mechanisms that allow the retailer to track purchases referred by such persons include but are not limited to the use of a link on the person's Internet website, promotional codes distributed through the person's hand-delivered or mailed material, and promotional codes distributed by the person through radio or other broadcast media. The provisions of this paragraph (1.1) shall apply only if the cumulative gross receipts from sales of tangible personal property by the retailer to customers who are referred to the retailer by all persons in this State under such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December. A retailer meeting the requirements of this paragraph (1.1) shall be presumed to be maintaining a place of business in this State but may rebut this presumption by submitting proof that the referrals or other activities pursued within this State by such persons were not sufficient to meet the nexus standards of the United States Constitution during the preceding 4 quarterly periods.

(1.2) Beginning July 1, 2011, a retailer having a contract with a person located in this State under which:

(A) the retailer sells the same or substantially similar line of products as the person located in this State and does so using an identical or substantially similar name, trade name, or trademark as the person located in this State; and

(B) the retailer provides a commission or other consideration to the person located in this State based upon the sale of tangible personal property by the retailer.

The provisions of this paragraph (1.2) shall apply only if the cumulative gross receipts from sales of tangible personal property by the retailer to customers in this State under all such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December.

(2) A retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State.

(3) A retailer, pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of

advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions.

(4) A retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities.

(5) A retailer that is owned or controlled by the same interests that own or control any retailer engaging in business in the same or similar line of business in this State.

(6) A retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section.

(7) A retailer, pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State.

(8) A retailer engaging in activities in Illinois, which activities in the state in which the retail business engaging in such activities is located would constitute maintaining a place of business in that state.

(9) Beginning October 1, 2018, a retailer making sales of tangible personal property to purchasers in Illinois from outside of Illinois if:

(A) the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois are \$100,000 or more; or

(B) the retailer enters into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

The retailer shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) of this paragraph (9) for the preceding 12-month period. If the retailer meets the criteria of either subparagraph (A) or (B) for a 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the retailer shall determine whether the retailer met the criteria of either subparagraph (A) or (B) during the preceding 12-month period. If the retailer met the criteria in either subparagraph (A) or (B) for the preceding 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this

Act and file returns for the subsequent year. If at the end of a one-year period a retailer that was required to collect and remit the tax imposed under this Act determines that he or she did not meet the criteria in either subparagraph (A) or (B) during the preceding 12-month period, the retailer shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) for the preceding 12-month period.

Beginning January 1, 2020, neither the gross receipts from nor the number of separate transactions for sales of tangible personal property to purchasers in Illinois that a retailer makes through a marketplace facilitator and for which the retailer has received a certification from the marketplace facilitator pursuant to Section 2d of this Act shall be included for purposes of determining whether he or she has met the thresholds of this paragraph (9).

(10) Beginning January 1, 2020, a marketplace facilitator, as defined in Section 2d of this Act.

"Bulk vending machine" means a vending machine, containing unsorted confections, nuts, toys, or other items designed primarily to be used or played with by children which, when a coin or coins of a denomination not larger than \$0.50 are inserted, are dispensed in equal portions, at random and without selection by the customer.

(Source: P.A. 99-78, eff. 7-20-15; 100-587, eff. 6-4-18.)

(35 ILCS 105/2d new)

Sec. 2d. Marketplace facilitators and marketplace sellers.

(a) As used in this Section:

"Affiliate" means a person that, with respect to another person: (i) has a direct or indirect ownership interest of more than 5 percent in the other person; or (ii) is related to the other person because a third person, or a group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than 5% in the related person.

"Marketplace" means a physical or electronic place, forum, platform, application, or other method by which a marketplace seller sells or offers to sell items.

"Marketplace facilitator" means a person who, pursuant to an agreement with a marketplace seller, facilitates sales of tangible personal property by that marketplace seller. A person facilitates a sale of tangible personal property by, directly or indirectly through one or more affiliates, doing both of the following: (i) listing or otherwise making available for sale the tangible personal property of the marketplace seller through a marketplace owned or operated by the marketplace facilitator; and (ii) processing sales or payments for marketplace sellers.

"Marketplace seller" means a person that sells or offers to

sell tangible personal property through a marketplace.

(b) Beginning on January 1, 2020, a marketplace facilitator who meets either of the following criteria is considered the retailer of each sale of tangible personal property made on the marketplace:

(1) the cumulative gross receipts from sales of tangible personal property to purchasers in Illinois by the marketplace facilitator and by marketplace sellers are \$100,000 or more; or

(2) the marketplace facilitator and marketplace sellers cumulatively enter into 200 or more separate transactions for the sale of tangible personal property to purchasers in Illinois.

A marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either paragraph (1) or (2) of this subsection (b) for the preceding 12-month period. If the marketplace facilitator meets the criteria of either paragraph (1) or (2) for a 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the marketplace facilitator shall determine whether the marketplace facilitator met the criteria of either paragraph (1) or (2) during the preceding 12-month period. If the marketplace facilitator met the

criteria in either paragraph (1) or (2) for the preceding 12-month period, he or she is considered a retailer maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that he or she did not meet the criteria in either paragraph (1) or (2) during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either paragraph (1) or (2) for the preceding 12-month period.

(c) A marketplace facilitator that meets either of the thresholds in subsection (b) of this Section is considered the retailer of each sale made through its marketplace and is liable for collecting and remitting the tax under this Act on all such sales. The marketplace facilitator has all the rights and duties, and is required to comply with the same requirements and procedures, as all other retailers maintaining a place of business in this State who are registered or who are required to be registered to collect and remit the tax imposed by this Act.

(d) A marketplace facilitator shall:

(1) certify to each marketplace seller that the marketplace facilitator assumes the rights and duties of a

retailer under this Act with respect to sales made by the marketplace seller through the marketplace; and

(2) collect taxes imposed by this Act as required by Section 3-45 of this Act for sales made through the marketplace.

(e) A marketplace seller shall retain books and records for all sales made through a marketplace in accordance with the requirements of Section 11.

(f) A marketplace seller shall furnish to the marketplace facilitator information that is necessary for the marketplace facilitator to correctly collect and remit taxes for a retail sale. The information may include a certification that an item being sold is taxable, not taxable, exempt from taxation, or taxable at a specified rate. A marketplace seller shall be held harmless for liability for the tax imposed under this Act when a marketplace facilitator fails to correctly collect and remit tax after having been provided with information by a marketplace seller to correctly collect and remit taxes imposed under this Act.

(g) Except as provided in subsection (h), if the marketplace facilitator demonstrates to the satisfaction of the Department that its failure to correctly collect and remit tax on a retail sale resulted from the marketplace facilitator's good faith reliance on incorrect or insufficient information provided by a marketplace seller, it shall be relieved of liability for the tax on that retail sale. In this

case, a marketplace seller is liable for any resulting tax due.

(h) A marketplace facilitator and marketplace seller that are affiliates, as defined by subsection (a), are jointly and severally liable for tax liability resulting from a sale made by the affiliated marketplace seller through the marketplace.

(i) This Section does not affect the tax liability of a purchaser under this Act.

(j) The Department may adopt rules for the administration and enforcement of the provisions of this Section.

Section 10-15. The Service Use Tax Act is amended by changing Section 2 and by adding Section 2d as follows:

(35 ILCS 110/2) (from Ch. 120, par. 439.32)

Sec. 2. Definitions. In this Act:

"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property, (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase

to cause to be transported in interstate commerce to destinations outside the State of Illinois.

"Purchased from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.

"Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.

"Cost price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him or her by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or

finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of service" means any transaction except:

(1) a retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(2) a sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(3) except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body, or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is

organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(4) (blank).

(4a) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors, or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(4a-5) on and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division:

- (i) with a gross vehicle weight rating in excess of 8,000 pounds;
- (ii) that are subject to the commercial

distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(5) a sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Use Tax or Service Occupation Tax, rather than Use Tax or Retailers' Occupation Tax. The exemption provided by this paragraph (5) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the

generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. The exemption under this paragraph (5) is exempt from the provisions of Section 3-75.

(5a) the repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property to a destination outside Illinois, for use outside Illinois.

(5b) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of

such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(6) until July 1, 2003, a sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale.

(7) at the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a

primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (5) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. On and after July 1, 2017, exemption (5) also includes graphic arts machinery and equipment, as defined in paragraph (5) of Section 3-5. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the

meaning and scope of this exemption. For the purposes of exemption (5), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further, for purposes of exemption (5), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form,

use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The user of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (5) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (3) of this Section shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

The purchase, employment and transfer of such tangible personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of service or of tangible personal property within the meaning of this Act.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

"Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman:

(1) having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State;

(1.1) having a contract with a person located in this State under which the person, for a commission or other consideration based on the sale of service by the serviceman, directly or indirectly refers potential customers to the serviceman by providing to the potential customers a promotional code or other mechanism that allows the serviceman to track purchases referred by such persons. Examples of mechanisms that allow the serviceman to track purchases referred by such persons include but are not limited to the use of a link on the person's Internet website, promotional codes distributed through the person's hand-delivered or mailed material, and

promotional codes distributed by the person through radio or other broadcast media. The provisions of this paragraph (1.1) shall apply only if the cumulative gross receipts from sales of service by the serviceman to customers who are referred to the serviceman by all persons in this State under such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December; a serviceman meeting the requirements of this paragraph (1.1) shall be presumed to be maintaining a place of business in this State but may rebut this presumption by submitting proof that the referrals or other activities pursued within this State by such persons were not sufficient to meet the nexus standards of the United States Constitution during the preceding 4 quarterly periods;

(1.2) beginning July 1, 2011, having a contract with a person located in this State under which:

(A) the serviceman sells the same or substantially similar line of services as the person located in this State and does so using an identical or substantially similar name, trade name, or trademark as the person located in this State; and

(B) the serviceman provides a commission or other consideration to the person located in this State based upon the sale of services by the serviceman.

The provisions of this paragraph (1.2) shall apply only if

the cumulative gross receipts from sales of service by the serviceman to customers in this State under all such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December;

(2) soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State;

(3) pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions;

(4) soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;

(5) being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State;

(6) having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section;

(7) pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State;

(8) engaging in activities in Illinois, which activities in the state in which the supply business engaging in such activities is located would constitute maintaining a place of business in that state; or

(9) beginning October 1, 2018, making sales of service to purchasers in Illinois from outside of Illinois if:

(A) the cumulative gross receipts from sales of service to purchasers in Illinois are \$100,000 or more; or

(B) the serviceman enters into 200 or more separate transactions for sales of service to purchasers in Illinois.

The serviceman shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) of this paragraph (9) for the preceding 12-month period. If the serviceman meets the criteria of either subparagraph (A) or (B) for a 12-month

period, he or she is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the serviceman shall determine whether the serviceman met the criteria of either subparagraph (A) or (B) during the preceding 12-month period. If the serviceman met the criteria in either subparagraph (A) or (B) for the preceding 12-month period, he or she is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a serviceman that was required to collect and remit the tax imposed under this Act determines that he or she did not meet the criteria in either subparagraph (A) or (B) during the preceding 12-month period, the serviceman subsequently shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) for the preceding 12-month period.

Beginning January 1, 2020, neither the gross receipts from nor the number of separate transactions for sales of service to purchasers in Illinois that a serviceman makes through a marketplace facilitator and for which the serviceman has received a certification from the

marketplace facilitator pursuant to Section 2d of this Act shall be included for purposes of determining whether he or she has met the thresholds of this paragraph (9).

(10) Beginning January 1, 2020, a marketplace facilitator, as defined in Section 2d of this Act.

(Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17; 100-587, eff. 6-4-18; 100-863, eff. 8-14-18.)

(35 ILCS 110/2d new)

Sec. 2d. Marketplace facilitators and marketplace servicemen.

(a) Definitions. For purposes of this Section:

"Affiliate" means a person that, with respect to another person: (i) has a direct or indirect ownership interest of more than 5% in the other person; or (ii) is related to the other person because a third person, or group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than 5% in the related person.

"Marketplace" means a physical or electronic place, forum, platform, application or other method by which a marketplace serviceman makes or offers to make sales of service.

"Marketplace facilitator" means a person who, pursuant to an agreement with a marketplace serviceman, facilitates sales of service by that marketplace serviceman. A person facilitates a sale of service by, directly or indirectly through one or

more affiliates, doing both of the following: (i) listing or otherwise making available a sale of service of the marketplace serviceman through a marketplace owned or operated by the marketplace facilitator; and (ii) processing sales of service for, or payments for sales of service by, marketplace servicemen.

"Marketplace serviceman" means a person that makes or offers to make a sale of service through a marketplace.

(b) Beginning January 1, 2020, a marketplace facilitator who meets either of the following criteria is considered the serviceman for each sale of service made on the marketplace:

(1) the cumulative gross receipts from sales of service to purchasers in Illinois by the marketplace facilitator and by marketplace servicemen are \$100,000 or more; or

(2) the marketplace facilitator and marketplace servicemen cumulatively enter into 200 or more separate transactions for the sale of service to purchasers in Illinois.

A marketplace facilitator shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either paragraph (1) or (2) of this subsection (b) for the preceding 12-month period. If the marketplace facilitator meets the criteria of either paragraph (1) or (2) for a 12-month period, he or she is considered a serviceman maintaining a place of business in this State and is required to collect and remit the

tax imposed under this Act and file returns for one year. At the end of that one-year period, the marketplace facilitator shall determine whether the marketplace facilitator met the criteria of either paragraph (1) or (2) during the preceding 12-month period. If the marketplace facilitator met the criteria in either paragraph (1) or (2) for the preceding 12-month period, he or she is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If, at the end of a one-year period, a marketplace facilitator that was required to collect and remit the tax imposed under this Act determines that he or she did not meet the criteria in either paragraph (1) or (2) during the preceding 12-month period, the marketplace facilitator shall subsequently determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either paragraph (1) or (2) for the preceding 12-month period.

(c) A marketplace facilitator that meets either of the thresholds in subsection (b) of this Section is considered the serviceman for each sale of service made through its marketplace and is liable for collecting and remitting the tax under this Act on all such sales. The marketplace facilitator has all the rights and duties, and is required to comply with the same requirements and procedures, as all other servicemen maintaining a place of business in this State who are

registered or who are required to be registered to collect and remit the tax imposed by this Act.

(d) A marketplace facilitator shall:

(1) certify to each marketplace serviceman that the marketplace facilitator assumes the rights and duties of a serviceman under this Act with respect to sales of service made by the marketplace serviceman through the marketplace; and

(2) collect taxes imposed by this Act as required by Section 3-40 of this Act for sales of service made through the marketplace.

(e) A marketplace serviceman shall retain books and records for all sales of service made through a marketplace in accordance with the requirements of Section 11.

(f) A marketplace serviceman shall furnish to the marketplace facilitator information that is necessary for the marketplace facilitator to correctly collect and remit taxes for a sale of service. The information may include a certification that an item transferred incident to a sale of service under this Act is taxable, not taxable, exempt from taxation, or taxable at a specified rate. A marketplace serviceman shall be held harmless for liability for the tax imposed under this Act when a marketplace facilitator fails to correctly collect and remit tax after having been provided with information by a marketplace serviceman to correctly collect and remit taxes imposed under this Act.

(g) Except as provided in subsection (h), if the marketplace facilitator demonstrates to the satisfaction of the Department that its failure to correctly collect and remit tax on a sale of service resulted from the marketplace facilitator's good faith reliance on incorrect or insufficient information provided by a marketplace serviceman, it shall be relieved of liability for the tax on that sale of service. In this case, a marketplace serviceman is liable for any resulting tax due.

(h) A marketplace facilitator and marketplace serviceman that are affiliates, as defined by subsection (a), are jointly and severally liable for tax liability resulting from a sale of service made by the affiliated marketplace serviceman through the marketplace.

(i) This Section does not affect the tax liability of a purchaser under this Act.

(j) The Department may adopt rules for the administration and enforcement of the provisions of this Section.

Section 10-35. The Tax Delinquency Amnesty Act is amended by changing Section 10 as follows:

(35 ILCS 745/10)

Sec. 10. Amnesty program. The Department shall establish an amnesty program for all taxpayers owing any tax imposed by reason of or pursuant to authorization by any law of the State

of Illinois and collected by the Department.

The amnesty program shall be for a period from October 1, 2003 through November 15, 2003 and for a period beginning on October 1, 2010 and ending November 8, 2010 and for a period beginning on October 1, 2019 and ending on November 15, 2019.

The amnesty program shall provide that, upon payment by a taxpayer of all taxes due from that taxpayer to the State of Illinois for any taxable period ending (i) after June 30, 1983 and prior to July 1, 2002 for the tax amnesty period occurring from October 1, 2003 through November 15, 2003, ~~and~~ (ii) after June 30, 2002 and prior to July 1, 2009 for the tax amnesty period beginning on October 1, 2010 through November 8, 2010, and (iii) after June 30, 2011 and prior to July 1, 2018 for the tax amnesty period beginning on October 1, 2019 through November 15, 2019, the Department shall abate and not seek to collect any interest or penalties that may be applicable and the Department shall not seek civil or criminal prosecution for any taxpayer for the period of time for which amnesty has been granted to the taxpayer. Failure to pay all taxes due to the State for a taxable period shall invalidate any amnesty granted under this Act. Amnesty shall be granted only if all amnesty conditions are satisfied by the taxpayer.

Amnesty shall not be granted to taxpayers who are a party to any criminal investigation or to any civil or criminal litigation that is pending in any circuit court or appellate court or the Supreme Court of this State for nonpayment,

delinquency, or fraud in relation to any State tax imposed by any law of the State of Illinois.

Participation in an amnesty program shall not preclude a taxpayer from claiming a refund for an overpayment of tax on an issue unrelated to the issues for which the taxpayer claimed amnesty or for an overpayment of tax by taxpayers estimating a non-final liability for the amnesty program pursuant to Section 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)).

Voluntary payments made under this Act shall be made by cash, check, guaranteed remittance, or ACH debit.

The Department shall adopt rules as necessary to implement the provisions of this Act.

Except as otherwise provided in this Section, all money collected under this Act that would otherwise be deposited into the General Revenue Fund shall be deposited as follows: (i) one-half into the Common School Fund; (ii) one-half into the General Revenue Fund. Two percent of all money collected under this Act shall be deposited by the State Treasurer into the Tax Compliance and Administration Fund and, subject to appropriation, shall be used by the Department to cover costs associated with the administration of this Act.

(Source: P.A. 96-1435, eff. 8-16-10.)

Section 10-40. The Health Maintenance Organization Act is amended by changing Section 5-5 and by adding Section 5-10 as follows:

(215 ILCS 125/5-5) (from Ch. 111 1/2, par. 1413)

Sec. 5-5. Suspension, revocation or denial of certification of authority. The Director may suspend or revoke any certificate of authority issued to a health maintenance organization under this Act or deny an application for a certificate of authority if he finds any of the following:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan, or in a manner contrary to that described in any information submitted under Section 2-1 or 4-12.

(b) The health maintenance organization issues contracts or evidences of coverage or uses a schedule of charges for health care services that do not comply with the requirement of Section 2-1 or 4-12.

(c) The health care plan does not provide or arrange for basic health care services, except as provided in Section 4-13 concerning mental health services for clients of the Department of Children and Family Services.

(d) The Director of Public Health certifies to the Director that (1) the health maintenance organization does not meet the requirements of Section 2-2 or (2) the health maintenance organization is unable to fulfill its obligations to furnish health care services as required under its health care plan. The Department of Public Health shall promulgate by rule,

pursuant to the Illinois Administrative Procedure Act, the precise standards used for determining what constitutes a material misrepresentation, what constitutes a material violation of a contract or evidence of coverage, or what constitutes good faith with regard to certification under this paragraph.

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.

(f) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner.

(g) The continued operation of the health maintenance organization would be hazardous to its enrollees.

(h) The health maintenance organization has neglected to correct, within the time prescribed by subsection (c) of Section 2-4, any deficiency occurring due to the organization's prescribed minimum net worth or special contingent reserve being impaired.

(i) The health maintenance organization has otherwise failed to substantially comply with this Act.

(j) The health maintenance organization has failed to meet the requirements for issuance of a certificate of authority set forth in Section 2-2.

When the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. The Director may permit further operation of the organization that he finds to be in the best interest of enrollees to the end that the enrollees will be afforded the greatest practical opportunity to obtain health care services.

(k) The health maintenance organization has failed to pay any assessment due under Article V-H of the Public Aid Code for 60 days following the due date of the payment (as extended by any grace period granted).

(Source: P.A. 88-487.)

(215 ILCS 125/5-10 new)

Sec. 5-10. Managed care organizations; revenue data.

(a) No managed care organization shall pass the cost of the assessment imposed pursuant to Article V-H of the Public Aid Code on to consumers as a discrete addition to their premiums.

(b) The Department shall provide the Department of Healthcare and Family Services with member months and premium revenue data needed for implementing the assessment imposed under Article V-H of the Public Aid Code.

Section 10-45. The Illinois Public Aid Code is amended by adding the Article V-H as follows:

(305 ILCS 5/Art. V-H heading new)

ARTICLE V-H. MANAGED CARE ORGANIZATION PROVIDER ASSESSMENT.

(305 ILCS 5/5H-1 new)

Sec. 5H-1. Definitions. As used in this Article:

"Base year" means the 12-month period from January 1, 2018 to December 31, 2018.

"Department" means the Department of Healthcare and Family Services.

"Federal employee health benefit" means the program of health benefits plans, as defined in 5 U.S.C. 8901, available to federal employees under 5 U.S.C. 8901 to 8914.

"Fund" means the Healthcare Provider Relief Fund.

"Managed care organization" means an entity operating under a certificate of authority issued pursuant to the Health Maintenance Organization Act or as a Managed Care Community Network pursuant to Section 5-11 of the Public Aid Code.

"Medicaid managed care organization" means a managed care organization under contract with the Department to provide services to recipients of benefits in the medical assistance program pursuant to Article V of the Public Aid Code, the Children's Health Insurance Program Act, or the Covering ALL KIDS Health Insurance Act. It does not include contracts the

same entity or an affiliated entity has for other business.

"Medicare" means the federal Medicare program established under Title XVIII of the federal Social Security Act.

"Member months" means the aggregate total number of months all individuals are enrolled for coverage in a Managed Care Organization during the base year. Member months are determined by the Department for Medicaid Managed Care Organizations based on enrollment data in its Medicaid Management Information System and by the Department of Insurance for other Managed Care Organizations based on required filings with the Department of Insurance. Member months do not include months individuals are enrolled in a Limited Health Services Organization, including stand-alone dental or vision plans, a Medicare Advantage Plan, a Medicare Supplement Plan, a Medicaid Medicare Alignment Initiate Plan pursuant to a Memorandum of Understanding between the Department and the Federal Centers for Medicare and Medicaid Services or a Federal Employee Health Benefits Plan.

(305 ILCS 5/5H-2 new)

Sec. 5H-2. Federal waivers. The Department shall request a waiver from the federal Centers for Medicare and Medicaid Services of the broad-based and uniformity provisions of Section 1903(w) (3) (B) and (C) of Title XIX of the Social Security Act, 42 U.S.C. 1396b, relating to the assessment imposed under this Article. The assessment required pursuant to

Section 5H-3 shall not be due and payable until such waiver has been approved and all other federal requirements necessary to obtain federal financial participation have been approved by the Centers for Medicare and Medicaid Services.

(305 ILCS 5/5H-3 new)

Sec. 5H-3. Managed care assessment.

(a) For State Fiscal year 2020 through State Fiscal Year 2025, there is imposed upon managed care organization member months an assessment, calculated on base year data, as set forth below for the appropriate tier:

(1) Tier 1: \$60.20 per member month.

(2) Tier 2: \$1.20 per member month.

(3) Tier 3: \$2.40 per member month.

(b) The tiers are established as follows:

(1) Tier 1 includes the first 4,195,000 member months in a Medicaid managed care organization for the base year;

(ii) Tier 2 includes member months over 4,195,000 in a Medicaid managed care organization during the base year;

and

(iv) Tier 3 includes member months during the base year in a managed care organization that is not a Medicaid managed care organization.

(c) For State fiscal year 2020 through State fiscal year 2025, the Department may by rule adjust rates or tier parameters or both in order to maximize the revenue generated

by the assessment consistent with federal regulations and to meet federal statistical tests necessary for federal financial participation. Any upward adjustment to the Tier 3 rate shall be the minimum necessary to meet federal statistical tests.

(305 ILCS 5/5H-4 new)

Sec. 5H-4. Payment of assessment.

(a) The assessment payable pursuant to Section 5H-3 shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for the year, on the first State business day of each month.

(b) If the approval of the waivers required under Section 5H-2 is delayed beyond the start of State fiscal year 2020, then the first installment shall be due on the first business day of the first month that begins more than 15 days after the date of such approval. In the event approval results in installments beginning after July 1, 2019, the amount of each installment for that fiscal year shall equal the full amount of the annual assessment divided by the number of payments that will be paid in fiscal year 2020.

(c) The Department shall notify each managed care organization of its annual fiscal year 2020 assessment and the installment due dates no later than 30 days prior to the first installment due date and the annual assessment and due dates for each subsequent year at least 30 days prior to the start of each fiscal year.

(d) Proceeds from the assessment levied pursuant to Section 5H-3 shall be deposited into the Fund.

(305 ILCS 5/5H-5 new)

Sec. 5H-5. Liability or resultant entities. In the event of a merger, acquisition, or any similar transaction involving entities subject to the assessment under this Article, the resultant entity shall be responsible for the full amount of the assessment for all entities involved in the transaction with the member months allotted to tiers as they were prior to the transaction and no member months shall change tiers as a result of any transaction. A managed care organization that ceases doing business in the State during any fiscal year shall be liable only for the monthly installments due in months that they operated in the State. The Department shall by rule establish a methodology to set the assessment base member months for a managed care organization that begins operating in the State at any time after 2018. Nothing in this Section shall be construed to limit authority granted in subsection (c) of Section 5H-3.

(305 ILCS 5/5H-6 new)

Sec. 5H-6. Recordkeeping; penalties.

(a) A managed care organization that is liable for the assessment under this Article shall keep accurate and complete records and pertinent documents as may be required by the

Department. Records required by the Department shall be retained for a period of 4 years after the assessment imposed under this Act to which the records apply is due or as otherwise provided by law. The Department or the Department of Insurance may audit all records necessary to ensure compliance with this Article and make adjustments to assessment amounts previously calculated based on the results of any such audit.

(b) If a managed care organization fails to make a payment due under this Article in a timely fashion, they shall pay an additional penalty of 5% of the amount of the installment not paid on or before the due date, or any grace period granted, plus 5% of the portion thereof remaining unpaid on the last day of each 30-day period thereafter. The Department is authorized to grant grace periods of up to 30 days upon request of a managed care organization for good cause due to financial or other difficulties, as determined by the Department. If a managed care organization fails to make a payment within 60 days after the due date the Department shall additionally impose a contractual sanction allowed against a Medicaid managed care organization and may terminate any such contract. The Department of Insurance shall take action against the certificate of authority of a non-Medicaid managed care organization that fails to pay an installment within 60 days after the due date.

Sec. 5H-7. Rulemaking. The Department may by rule modify or make adjustments to any methodology, assessment amount, assessment tier, or other similar provision specified in this Article, including broadening the tax base in subsection (a) of Section 5H-3, to the extent necessary to meet the requirements of federal law or regulations, obtain federal approval, or to ensure federal financial participation is available. However, upward adjustments to Tier 3 rates shall be the minimum necessary to meet federal statistical tests to receive federal financial participation. The Department shall adopt rules to implement this Article under the Illinois Administrative Procedure Act.

(305 ILCS 5/5H-8 new)

Sec. 5H-8. Duties of the Department.

(a) The Department shall ensure that rates to Medicaid managed care organizations are actuarially sound including appropriate incorporation of assessments under this Article, other taxes and administrative expenses, including standardization of processes, and cost of medical care.

(b) The Department shall pay to each Medicaid managed care organization the amount required to be included in its rates due to the assessment under this Article in order to ensure actuarial soundness within 10 business days of receipt of each assessment payment from the Medicaid managed care organization. The Department shall extend the deadline for any

assessment payment due after the initial assessment payment if the payment to the managed care organizations under this subsection for the previous assessment payment has not been paid. Such extension shall extend until 7 business days after receipt by the managed care organization of the late payment under this subsection.

(c) Reimbursement of assessments paid under this Article shall not be required to count as revenue towards any calculation of the managed care organization's medical loss ratio, net worth, risk based capital or other deposit requirements as may otherwise be required under the Insurance Code. Such reimbursements will be considered revenue in calculating the 6% limit under 42 U.S.C. 433.68(f)(3).

(d) The Department shall include in its annual report, beginning with its fiscal year 2020 report, and every year thereafter, information on the revenues collected from this assessment, the federal funds drawn based on those revenues, the rates set in Section 5H-3 or any alterations thereof by administrative rule, and other impacts this gross revenue has had on the Medicaid program.

Section 10-50. The Franchise Tax and License Fee Amnesty Act of 2007 is amended by changing Section 5-10 as follows:

(805 ILCS 8/5-10)

Sec. 5-10. Amnesty program. The Secretary shall establish

an amnesty program for all taxpayers owing any franchise tax or license fee imposed by Article XV of the Business Corporation Act of 1983. The amnesty program shall be for a period from February 1, 2008 through March 15, 2008. The amnesty program shall also be for a period between October 1, 2019 and November 15, 2019, and shall apply to franchise tax or license fee liabilities for any tax period ending after March 15, 2008 and on or before June 30, 2019. The amnesty program shall provide that, upon payment by a taxpayer of all franchise taxes and license fees due from that taxpayer to the State of Illinois for any taxable period, the Secretary shall abate and not seek to collect any interest or penalties that may be applicable, and the Secretary shall not seek civil or criminal prosecution for any taxpayer for the period of time for which amnesty has been granted to the taxpayer. Failure to pay all taxes due to the State for a taxable period shall not invalidate any amnesty granted under this Act with respect to the taxes paid pursuant to the amnesty program. Amnesty shall be granted only if all amnesty conditions are satisfied by the taxpayer. Amnesty shall not be granted to taxpayers who are a party to any criminal investigation or to any civil or criminal litigation that is pending in any circuit court or appellate court or the Supreme Court of this State for nonpayment, delinquency, or fraud in relation to any franchise tax or license fee imposed by Article XV of the Business Corporation Act of 1983. Voluntary payments made under this Act shall be made by check, guaranteed

remittance, or ACH debit. The Secretary shall adopt rules as necessary to implement the provisions of this Act. Except as otherwise provided in this Section, all money collected under this Act that would otherwise be deposited into the General Revenue Fund shall be deposited into the General Revenue Fund. Two percent of all money collected under this Act shall be deposited by the State Treasurer into the Franchise Tax and License Fee Amnesty Administration Fund and, subject to appropriation, shall be used by the Secretary to cover costs associated with the administration of this Act.

(Source: P.A. 95-233, eff. 8-16-07; 95-707, eff. 1-11-08.)

ARTICLE 20. BLUE COLLAR JOBS ACT

Section 20-1. This Act may be referred to as the Blue Collar Jobs Act.

Section 20-5. The Illinois Enterprise Zone Act is amended by changing Section 5.5 and by adding Section 13 as follows:

(20 ILCS 655/5.5) (from Ch. 67 1/2, par. 609.1)

Sec. 5.5. High Impact Business.

(a) In order to respond to unique opportunities to assist in the encouragement, development, growth and expansion of the private sector through large scale investment and development projects, the Department is authorized to receive and approve

applications for the designation of "High Impact Businesses" in Illinois subject to the following conditions:

(1) such applications may be submitted at any time during the year;

(2) such business is not located, at the time of designation, in an enterprise zone designated pursuant to this Act;

(3) the business intends to do one or more of the following:

(A) the business intends to make a minimum investment of \$12,000,000 which will be placed in service in qualified property and intends to create 500 full-time equivalent jobs at a designated location in Illinois or intends to make a minimum investment of \$30,000,000 which will be placed in service in qualified property and intends to retain 1,500 full-time retained jobs at a designated location in Illinois. The business must certify in writing that the investments would not be placed in service in qualified property and the job creation or job retention would not occur without the tax credits and exemptions set forth in subsection (b) of this Section. The terms "placed in service" and "qualified property" have the same meanings as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(B) the business intends to establish a new

electric generating facility at a designated location in Illinois. "New electric generating facility", for purposes of this Section, means a newly-constructed electric generation plant or a newly-constructed generation capacity expansion at an existing electric generation plant, including the transmission lines and associated equipment that transfers electricity from points of supply to points of delivery, and for which such new foundation construction commenced not sooner than July 1, 2001. Such facility shall be designed to provide baseload electric generation and shall operate on a continuous basis throughout the year; and (i) shall have an aggregate rated generating capacity of at least 1,000 megawatts for all new units at one site if it uses natural gas as its primary fuel and foundation construction of the facility is commenced on or before December 31, 2004, or shall have an aggregate rated generating capacity of at least 400 megawatts for all new units at one site if it uses coal or gases derived from coal as its primary fuel and shall support the creation of at least 150 new Illinois coal mining jobs, or (ii) shall be funded through a federal Department of Energy grant before December 31, 2010 and shall support the creation of Illinois coal-mining jobs, or (iii) shall use coal gasification or integrated gasification-combined cycle units that generate

electricity or chemicals, or both, and shall support the creation of Illinois coal-mining jobs. The business must certify in writing that the investments necessary to establish a new electric generating facility would not be placed in service and the job creation in the case of a coal-fueled plant would not occur without the tax credits and exemptions set forth in subsection (b-5) of this Section. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(B-5) the business intends to establish a new gasification facility at a designated location in Illinois. As used in this Section, "new gasification facility" means a newly constructed coal gasification facility that generates chemical feedstocks or transportation fuels derived from coal (which may include, but are not limited to, methane, methanol, and nitrogen fertilizer), that supports the creation or retention of Illinois coal-mining jobs, and that qualifies for financial assistance from the Department before December 31, 2010. A new gasification facility does not include a pilot project located within Jefferson County or within a county adjacent to Jefferson County for synthetic natural gas from coal; or

(C) the business intends to establish production operations at a new coal mine, re-establish production operations at a closed coal mine, or expand production at an existing coal mine at a designated location in Illinois not sooner than July 1, 2001; provided that the production operations result in the creation of 150 new Illinois coal mining jobs as described in subdivision (a)(3)(B) of this Section, and further provided that the coal extracted from such mine is utilized as the predominant source for a new electric generating facility. The business must certify in writing that the investments necessary to establish a new, expanded, or reopened coal mine would not be placed in service and the job creation would not occur without the tax credits and exemptions set forth in subsection (b-5) of this Section. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(D) the business intends to construct new transmission facilities or upgrade existing transmission facilities at designated locations in Illinois, for which construction commenced not sooner than July 1, 2001. For the purposes of this Section, "transmission facilities" means transmission lines with a voltage rating of 115 kilovolts or above,

including associated equipment, that transfer electricity from points of supply to points of delivery and that transmit a majority of the electricity generated by a new electric generating facility designated as a High Impact Business in accordance with this Section. The business must certify in writing that the investments necessary to construct new transmission facilities or upgrade existing transmission facilities would not be placed in service without the tax credits and exemptions set forth in subsection (b-5) of this Section. The term "placed in service" has the same meaning as described in subsection (h) of Section 201 of the Illinois Income Tax Act; or

(E) the business intends to establish a new wind power facility at a designated location in Illinois. For purposes of this Section, "new wind power facility" means a newly constructed electric generation facility, or a newly constructed expansion of an existing electric generation facility, placed in service on or after July 1, 2009, that generates electricity using wind energy devices, and such facility shall be deemed to include all associated transmission lines, substations, and other equipment related to the generation of electricity from wind energy devices. For purposes of this Section, "wind

energy device" means any device, with a nameplate capacity of at least 0.5 megawatts, that is used in the process of converting kinetic energy from the wind to generate electricity; or

(F) the business commits to (i) make a minimum investment of \$500,000,000, which will be placed in service in a qualified property, (ii) create 125 full-time equivalent jobs at a designated location in Illinois, (iii) establish a fertilizer plant at a designated location in Illinois that complies with the set-back standards as described in Table 1: Initial Isolation and Protective Action Distances in the 2012 Emergency Response Guidebook published by the United States Department of Transportation, (iv) pay a prevailing wage for employees at that location who are engaged in construction activities, and (v) secure an appropriate level of general liability insurance to protect against catastrophic failure of the fertilizer plant or any of its constituent systems; in addition, the business must agree to enter into a construction project labor agreement including provisions establishing wages, benefits, and other compensation for employees performing work under the project labor agreement at that location; for the purposes of this Section, "fertilizer plant" means a newly constructed or upgraded plant utilizing gas used in the production

of anhydrous ammonia and downstream nitrogen fertilizer products for resale; for the purposes of this Section, "prevailing wage" means the hourly cash wages plus fringe benefits for training and apprenticeship programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works; this paragraph (F) applies only to businesses that submit an application to the Department within 60 days after the effective date of this amendatory Act of the 98th General Assembly; and

(4) no later than 90 days after an application is submitted, the Department shall notify the applicant of the Department's determination of the qualification of the proposed High Impact Business under this Section.

(b) Businesses designated as High Impact Businesses pursuant to subdivision (a) (3) (A) of this Section shall qualify for the credits and exemptions described in the following Acts: Section 9-222 and Section 9-222.1A of the Public Utilities Act, subsection (h) of Section 201 of the Illinois Income Tax Act, and Section 1d of the Retailers' Occupation Tax Act; provided that these credits and exemptions described in these Acts shall not be authorized until the minimum investments set forth in

subdivision (a)(3)(A) of this Section have been placed in service in qualified properties and, in the case of the exemptions described in the Public Utilities Act and Section 1d of the Retailers' Occupation Tax Act, the minimum full-time equivalent jobs or full-time retained jobs set forth in subdivision (a)(3)(A) of this Section have been created or retained. Businesses designated as High Impact Businesses under this Section shall also qualify for the exemption described in Section 51 of the Retailers' Occupation Tax Act. The credit provided in subsection (h) of Section 201 of the Illinois Income Tax Act shall be applicable to investments in qualified property as set forth in subdivision (a)(3)(A) of this Section.

(b-5) Businesses designated as High Impact Businesses pursuant to subdivisions (a)(3)(B), (a)(3)(B-5), (a)(3)(C), and (a)(3)(D) of this Section shall qualify for the credits and exemptions described in the following Acts: Section 51 of the Retailers' Occupation Tax Act, Section 9-222 and Section 9-222.1A of the Public Utilities Act, and subsection (h) of Section 201 of the Illinois Income Tax Act; however, the credits and exemptions authorized under Section 9-222 and Section 9-222.1A of the Public Utilities Act, and subsection (h) of Section 201 of the Illinois Income Tax Act shall not be authorized until the new electric generating facility, the new gasification facility, the new transmission facility, or the new, expanded, or reopened coal mine is operational, except

that a new electric generating facility whose primary fuel source is natural gas is eligible only for the exemption under Section 51 of the Retailers' Occupation Tax Act.

(b-6) Businesses designated as High Impact Businesses pursuant to subdivision (a) (3) (E) of this Section shall qualify for the exemptions described in Section 51 of the Retailers' Occupation Tax Act; any business so designated as a High Impact Business being, for purposes of this Section, a "Wind Energy Business".

(b-7) Beginning on January 1, 2021, businesses designated as High Impact Businesses by the Department shall qualify for the High Impact Business construction jobs credit under subsection (h-5) of Section 201 of the Illinois Income Tax Act if the business meets the criteria set forth in subsection (i) of this Section. The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year.

(c) High Impact Businesses located in federally designated foreign trade zones or sub-zones are also eligible for additional credits, exemptions and deductions as described in the following Acts: Section 9-221 and Section 9-222.1 of the Public Utilities Act; and subsection (g) of Section 201, and Section 203 of the Illinois Income Tax Act.

(d) Except for businesses contemplated under subdivision (a) (3) (E) of this Section, existing Illinois businesses which

apply for designation as a High Impact Business must provide the Department with the prospective plan for which 1,500 full-time retained jobs would be eliminated in the event that the business is not designated.

(e) Except for new wind power facilities contemplated under subdivision (a)(3)(E) of this Section, new proposed facilities which apply for designation as High Impact Business must provide the Department with proof of alternative non-Illinois sites which would receive the proposed investment and job creation in the event that the business is not designated as a High Impact Business.

(f) Except for businesses contemplated under subdivision (a)(3)(E) of this Section, in the event that a business is designated a High Impact Business and it is later determined after reasonable notice and an opportunity for a hearing as provided under the Illinois Administrative Procedure Act, that the business would have placed in service in qualified property the investments and created or retained the requisite number of jobs without the benefits of the High Impact Business designation, the Department shall be required to immediately revoke the designation and notify the Director of the Department of Revenue who shall begin proceedings to recover all wrongfully exempted State taxes with interest. The business shall also be ineligible for all State funded Department programs for a period of 10 years.

(g) The Department shall revoke a High Impact Business

designation if the participating business fails to comply with the terms and conditions of the designation. However, the penalties for new wind power facilities or Wind Energy Businesses for failure to comply with any of the terms or conditions of the Illinois Prevailing Wage Act shall be only those penalties identified in the Illinois Prevailing Wage Act, and the Department shall not revoke a High Impact Business designation as a result of the failure to comply with any of the terms or conditions of the Illinois Prevailing Wage Act in relation to a new wind power facility or a Wind Energy Business.

(h) Prior to designating a business, the Department shall provide the members of the General Assembly and Commission on Government Forecasting and Accountability with a report setting forth the terms and conditions of the designation and guarantees that have been received by the Department in relation to the proposed business being designated.

(i) High Impact Business construction jobs credit. Beginning on January 1, 2021, a High Impact Business may receive a tax credit against the tax imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an amount equal to 50% of the amount of the incremental income tax attributable to High Impact Business construction jobs credit employees employed in the course of completing a High Impact Business construction jobs project. However, the High Impact Business construction jobs credit may equal 75% of the amount

of the incremental income tax attributable to High Impact Business construction jobs credit employees if the High Impact Business construction jobs credit project is located in an underserved area.

The Department shall certify to the Department of Revenue:
(1) the identity of taxpayers that are eligible for the High Impact Business construction jobs credit; and (2) the amount of High Impact Business construction jobs credits that are claimed pursuant to subsection (h-5) of Section 201 of the Illinois Income Tax Act in each taxable year. Any business entity that receives a High Impact Business construction jobs credit shall maintain a certified payroll pursuant to subsection (j) of this Section.

As used in this subsection (i):

"High Impact Business construction jobs credit" means an amount equal to 50% (or 75% if the High Impact Business construction project is located in an underserved area) of the incremental income tax attributable to High Impact Business construction job employees. The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year

"High Impact Business construction job employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of a High Impact Business construction job project.

"High Impact Business construction jobs project" means building a structure or building or making improvements of any kind to real property, undertaken and commissioned by a business that was designated as a High Impact Business by the Department. The term "High Impact Business construction jobs project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Incremental income tax" means the total amount withheld during the taxable year from the compensation of High Impact Business construction job employees.

"Underserved area" means a geographic area that meets one or more of the following conditions:

(1) the area has a poverty rate of at least 20% according to the latest federal decennial census;

(2) 75% or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education;

(3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

(4) the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar

years preceding the date of the application.

(j) Each contractor and subcontractor who is engaged in and executing a High Impact Business Construction jobs project, as defined under subsection (i) of this Section, for a business that is entitled to a credit pursuant to subsection (i) of this Section shall:

(1) make and keep, for a period of 5 years from the date of the last payment made on or after the effective date of this amendatory Act of the 101st General Assembly on a contract or subcontract for a High Impact Business Construction Jobs Project, records for all laborers and other workers employed by the contractor or subcontractor on the project; the records shall include:

(A) the worker's name;

(B) the worker's address;

(C) the worker's telephone number, if available;

(D) the worker's social security number;

(E) the worker's classification or classifications;

(F) the worker's gross and net wages paid in each pay period;

(G) the worker's number of hours worked each day;

(H) the worker's starting and ending times of work each day;

(I) the worker's hourly wage rate; and

(J) the worker's hourly overtime wage rate;

(2) no later than the 15th day of each calendar month, provide a certified payroll for the immediately preceding month to the taxpayer in charge of the High Impact Business construction jobs project; within 5 business days after receiving the certified payroll, the taxpayer shall file the certified payroll with the Department of Labor and the Department of Commerce and Economic Opportunity; a certified payroll must be filed for only those calendar months during which construction on a High Impact Business construction jobs project has occurred; the certified payroll shall consist of a complete copy of the records identified in paragraph (1) of this subsection (j), but may exclude the starting and ending times of work each day; the certified payroll shall be accompanied by a statement signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor which avers that:

(A) he or she has examined the certified payroll records required to be submitted by the Act and such records are true and accurate; and

(B) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor.

A general contractor is not prohibited from relying on a certified payroll of a lower-tier subcontractor, provided the general contractor does not knowingly rely upon a

subcontractor's false certification.

Any contractor or subcontractor subject to this subsection, and any officer, employee, or agent of such contractor or subcontractor whose duty as an officer, employee, or agent it is to file a certified payroll under this subsection, who willfully fails to file such a certified payroll on or before the date such certified payroll is required by this paragraph to be filed and any person who willfully files a false certified payroll that is false as to any material fact is in violation of this Act and guilty of a Class A misdemeanor.

The taxpayer in charge of the project shall keep the records submitted in accordance with this subsection on or after the effective date of this amendatory Act of the 101st General Assembly for a period of 5 years from the date of the last payment for work on a contract or subcontract for the High Impact Business construction jobs project.

The records submitted in accordance with this subsection shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The Department of Labor shall accept any reasonable submissions by the contractor that meet the requirements of this subsection (j) and shall share the information with the Department in order to comply with the awarding of a High Impact Business construction jobs credit. A contractor, subcontractor, or

public body may retain records required under this Section in paper or electronic format.

(k) Upon 7 business days' notice, each contractor and subcontractor shall make available for inspection and copying at a location within this State during reasonable hours, the records identified in this subsection (j) to the taxpayer in charge of the High Impact Business construction jobs project, its officers and agents, the Director of the Department of Labor and his deputies and agents, and to federal, State, or local law enforcement agencies and prosecutors.

(Source: P.A. 97-905, eff. 8-7-12; 98-109, eff. 7-25-13.)

(20 ILCS 655/13 new)

Sec. 13. Enterprise Zone construction jobs credit.

(a) Beginning on January 1, 2021, a business entity in a certified Enterprise Zone that makes a capital investment of at least \$10,000,000 in an Enterprise Zone construction jobs project may receive an Enterprise Zone construction jobs credit against the tax imposed under subsections (a) and (b) of Section 201 of the Illinois Income Tax Act in an amount equal to 50% of the amount of the incremental income tax attributable to Enterprise Zone construction jobs credit employees employed in the course of completing an Enterprise Zone construction jobs project. However, the Enterprise Zone construction jobs credit may equal 75% of the amount of the incremental income tax attributable to Enterprise Zone construction jobs credit

employees if the project is located in an underserved area.

(b) A business entity seeking a credit under this Section must submit an application to the Department and must receive approval from the designating municipality or county and the Department for the Enterprise Zone construction jobs credit project. The application must describe the nature and benefit of the project to the certified Enterprise Zone and its potential contributors. The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year.

Within 45 days after receipt of an application, the Department shall give notice to the applicant as to whether the application has been approved or disapproved. If the Department disapproves the application, it shall specify the reasons for this decision and allow 60 days for the applicant to amend and resubmit its application. The Department shall provide assistance upon request to applicants. Resubmitted applications shall receive the Department's approval or disapproval within 30 days after the application is resubmitted. Those resubmitted applications satisfying initial Department objectives shall be approved unless reasonable circumstances warrant disapproval.

On an annual basis, the designated zone organization shall furnish a statement to the Department on the programmatic and financial status of any approved project and an audited

financial statement of the project.

The Department shall certify to the Department of Revenue the identity of taxpayers who are eligible for the credits and the amount of credits that are claimed pursuant to subparagraph (8) of subsection (f) of Section 201 the Illinois Income Tax Act.

The Enterprise Zone construction jobs credit project must be undertaken by the business entity in the course of completing a project that complies with the criteria contained in Section 4 of this Act and is undertaken in a certified Enterprise Zone. The Department shall adopt any necessary rules for the implementation of this subsection (b).

(c) Any business entity that receives an Enterprise Zone construction jobs credit shall maintain a certified payroll pursuant to subsection (d) of this Section.

(d) Each contractor and subcontractor who is engaged in and is executing an Enterprise Zone Construction jobs credit project for a business that is entitled to a credit pursuant to this Section shall:

(1) make and keep, for a period of 5 years from the date of the last payment made on or after the effective date of this amendatory Act of the 101st General Assembly on a contract or subcontract for an Enterprise Zone construction jobs credit project, records for all laborers and other workers employed by them on the project; the records shall include:

(A) the worker's name;

(B) the worker's address;

(C) the worker's telephone number, if available;

(D) the worker's social security number;

(E) the worker's classification or
classifications;

(F) the worker's gross and net wages paid in each
pay period;

(G) the worker's number of hours worked each day;

(H) the worker's starting and ending times of work
each day;

(I) the worker's hourly wage rate; and

(J) the worker's hourly overtime wage rate;

(2) no later than the 15th day of each calendar month,
provide a certified payroll for the immediately preceding
month to the taxpayer in charge of the project; within 5
business days after receiving the certified payroll, the
taxpayer shall file the certified payroll with the
Department of Labor and the Department of Commerce and
Economic Opportunity; a certified payroll must be filed for
only those calendar months during which construction on an
Enterprise Zone construction jobs project has occurred;
the certified payroll shall consist of a complete copy of
the records identified in paragraph (1) of this subsection
(d), but may exclude the starting and ending times of work
each day; the certified payroll shall be accompanied by a

statement signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor which avers that:

(A) he or she has examined the certified payroll records required to be submitted by the Act and such records are true and accurate; and

(B) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor.

A general contractor is not prohibited from relying on a certified payroll of a lower-tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification.

Any contractor or subcontractor subject to this subsection, and any officer, employee, or agent of such contractor or subcontractor whose duty as an officer, employee, or agent it is to file a certified payroll under this subsection, who willfully fails to file such a certified payroll on or before the date such certified payroll is required by this paragraph to be filed and any person who willfully files a false certified payroll that is false as to any material fact is in violation of this Act and guilty of a Class A misdemeanor.

The taxpayer in charge of the project shall keep the records submitted in accordance with this subsection on or after the effective date of this amendatory Act of the 101st

General Assembly for a period of 5 years from the date of the last payment for work on a contract or subcontract for the project.

The records submitted in accordance with this subsection shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The Department of Labor shall accept any reasonable submissions by the contractor that meet the requirements of this subsection and shall share the information with the Department in order to comply with the awarding of Enterprise Zone construction jobs credits. A contractor, subcontractor, or public body may retain records required under this Section in paper or electronic format.

Upon 7 business days' notice, the contractor and each subcontractor shall make available for inspection and copying at a location within this State during reasonable hours, the records identified in paragraph (1) of this subsection to the taxpayer in charge of the project, its officers and agents, the Director of Labor and his deputies and agents, and to federal, State, or local law enforcement agencies and prosecutors.

(e) As used in this Section:

"Enterprise Zone construction jobs credit" means an amount equal to 50% (or 75% if the project is located in an underserved area) of the incremental income tax attributable to Enterprise Zone construction jobs credit employees.

"Enterprise Zone construction jobs credit employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of an Enterprise Zone construction jobs credit project.

"Enterprise Zone construction jobs credit project" means building a structure or building or making improvements of any kind to real property commissioned and paid for by a business that has applied and been approved for an Enterprise Zone construction jobs credit pursuant to this Section. "Enterprise Zone construction jobs credit project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Incremental income tax" means the total amount withheld during the taxable year from the compensation of Enterprise Zone construction jobs credit employees.

"Underserved area" means a geographic area that meets one or more of the following conditions:

(1) the area has a poverty rate of at least 20% according to the latest federal decennial census;

(2) 75% or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education;

(3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

(4) the area has an average unemployment rate, as

determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application.

Section 20-10. The Illinois Income Tax Act is amended by changing Sections 201, 211, and 221 as follows:

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

Sec. 201. Tax imposed.

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

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

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

(2) In the case of an individual, trust or estate, for

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

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

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

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

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

(ii) 3.75% of the taxpayer's net income for the period after December 31, 2014, as calculated under Section 202.5.

(5.2) In the case of an individual, trust, or estate, for taxable years beginning on or after January 1, 2015, and ending prior to July 1, 2017, an amount equal to 3.75% of the taxpayer's net income for the taxable year.

(5.3) In the case of an individual, trust, or estate, for taxable years beginning prior to July 1, 2017, and ending after June 30, 2017, an amount equal to the sum of (i) 3.75% of the taxpayer's net income for the period prior to July 1, 2017, as calculated under Section 202.5, and (ii) 4.95% of the taxpayer's net income for the period after June 30, 2017, as calculated under Section 202.5.

(5.4) In the case of an individual, trust, or estate, for taxable years beginning on or after July 1, 2017, an amount equal to 4.95% of the taxpayer's net income for the taxable year.

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

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

as calculated under Section 202.3.

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

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

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

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

(12) In the case of a corporation, for taxable years beginning on or after January 1, 2015, and ending prior to July 1, 2017, an amount equal to 5.25% of the taxpayer's

net income for the taxable year.

(13) In the case of a corporation, for taxable years beginning prior to July 1, 2017, and ending after June 30, 2017, an amount equal to the sum of (i) 5.25% of the taxpayer's net income for the period prior to July 1, 2017, as calculated under Section 202.5, and (ii) 7% of the taxpayer's net income for the period after June 30, 2017, as calculated under Section 202.5.

(14) In the case of a corporation, for taxable years beginning on or after July 1, 2017, an amount equal to 7% of the taxpayer's net income for the taxable year.

The rates under this subsection (b) are subject to the provisions of Section 201.5.

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

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

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

shall equal (i) the total amount of tax that would be imposed on the foreign insurer's net income allocable to Illinois for the taxable year by such foreign insurer's state or country of domicile if that net income were subject to all income taxes and taxes measured by net income imposed by such foreign insurer's state or country of domicile, net of all credits allowed or (ii) a rate of zero if no such tax is imposed on such income by the foreign insurer's state of domicile. For the purposes of this subsection (d-1), an inter-affiliate includes a mutual insurer under common management.

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

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

(B) the privilege tax imposed by Section 409 of the Illinois Insurance Code, the fire insurance company tax imposed by Section 12 of the Fire Investigation Act, and the fire department taxes imposed under Section 11-10-1 of the Illinois Municipal Code, equals 1.25% for taxable years ending prior to December 31, 2003, or 1.75% for taxable years ending on or after December 31, 2003, of the net taxable premiums written for the taxable year, as described by subsection (1) of Section 409 of the Illinois Insurance Code. This paragraph will in

no event increase the rates imposed under subsections (b) and (d).

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

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

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

(1) A taxpayer shall be allowed a credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1984. There shall be allowed an additional credit equal to .5% of the basis of qualified property placed in service during the taxable year, provided such property is placed in service on or after July 1, 1986, and the taxpayer's base employment within Illinois has increased by 1% or more over the preceding year as determined by the taxpayer's employment records filed with the Illinois Department of Employment Security. Taxpayers who are new to Illinois shall be deemed to have

met the 1% growth in base employment for the first year in which they file employment records with the Illinois Department of Employment Security. The provisions added to this Section by Public Act 85-1200 (and restored by Public Act 87-895) shall be construed as declaratory of existing law and not as a new enactment. If, in any year, the increase in base employment within Illinois over the preceding year is less than 1%, the additional credit shall be limited to that percentage times a fraction, the numerator of which is .5% and the denominator of which is 1%, but shall not exceed .5%. The investment credit shall not be allowed to the extent that it would reduce a taxpayer's liability in any tax year below zero, nor may any credit for qualified property be allowed for any year other than the year in which the property was placed in service in Illinois. For tax years ending on or after December 31, 1987, and on or before December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years if the taxpayer (i) makes investments which cause the creation of a minimum of 2,000 full-time equivalent jobs in Illinois, (ii) is located in an

enterprise zone established pursuant to the Illinois Enterprise Zone Act and (iii) is certified by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) as complying with the requirements specified in clause (i) and (ii) by July 1, 1986. The Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity) shall notify the Department of Revenue of all such certifications immediately. For tax years ending after December 31, 1988, the credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit years. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

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

(A) is tangible, whether new or used, including buildings and structural components of buildings and signs that are real property, but not including land or improvements to real property that are not a structural

component of a building such as landscaping, sewer lines, local access roads, fencing, parking lots, and other appurtenances;

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

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

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

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

(3) For purposes of this subsection (e), "manufacturing" means the material staging and production of tangible personal property by procedures commonly regarded as manufacturing, processing, fabrication, or assembling which changes some existing material into new shapes, new qualities, or new combinations. For purposes of

this subsection (e) the term "mining" shall have the same meaning as the term "mining" in Section 613(c) of the Internal Revenue Code. For purposes of this subsection (e), the term "retailing" means the sale of tangible personal property for use or consumption and not for resale, or services rendered in conjunction with the sale of tangible personal property for use or consumption and not for resale. For purposes of this subsection (e), "tangible personal property" has the same meaning as when that term is used in the Retailers' Occupation Tax Act, and, for taxable years ending after December 31, 2008, does not include the generation, transmission, or distribution of electricity.

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

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

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

(7) If during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of

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

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

(9) Each taxable year ending before December 31, 2000, a partnership may elect to pass through to its partners the credits to which the partnership is entitled under this subsection (e) for the taxable year. A partner may use the credit allocated to him or her under this paragraph only against the tax imposed in subsections (c) and (d) of this Section. If the partnership makes that election, those credits shall be allocated among the partners in the

partnership in accordance with the rules set forth in Section 704(b) of the Internal Revenue Code, and the rules promulgated under that Section, and the allocated amount of the credits shall be allowed to the partners for that taxable year. The partnership shall make this election on its Personal Property Tax Replacement Income Tax return for that taxable year. The election to pass through the credits shall be irrevocable.

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

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

(1) A taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for

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

following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

(2) The term qualified property means property which:

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

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

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

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

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

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

(4) If the basis of the property for federal income tax depreciation purposes is increased after it has been placed

in service in the Enterprise Zone or River Edge Redevelopment Zone by the taxpayer, the amount of such increase shall be deemed property placed in service on the date of such increase in basis.

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

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

(7) There shall be allowed an additional credit equal to 0.5% of the basis of qualified property placed in service during the taxable year in a River Edge

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

(8) For taxable years beginning on or after January 1, 2021, there shall be allowed an Enterprise Zone construction jobs credit against the taxes imposed under subsections (a) and (b) of this Section as provided in Section 13 of the Illinois Enterprise Zone Act.

The credit or credits may not reduce the taxpayer's liability to less than zero. If the amount of the credit or credits exceeds the taxpayer's liability, the excess may be carried forward and applied against the taxpayer's liability in succeeding calendar years in the same manner provided under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year

for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.

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

The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year

This paragraph (8) is exempt from the provisions of Section 250.

(g) (Blank).

(h) Investment credit; High Impact Business.

(1) Subject to subsections (b) and (b-5) of Section 5.5 of the Illinois Enterprise Zone Act, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for investment in qualified property which is placed in service by a Department of Commerce and Economic Opportunity designated High Impact

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

liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.

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

(2) The term qualified property means property which:

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

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

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

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

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

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

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

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

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

(h-5) High Impact Business constructions jobs credit. For taxable years beginning on or after January 1, 2021, there shall also be allowed a High Impact Business construction jobs credit against the tax imposed under subsections (a) and (b) of this Section as provided in subsections (i) and (j) of Section 5.5 of the Illinois Enterprise Zone Act.

The credit or credits may not reduce the taxpayer's liability to less than zero. If the amount of the credit or credits exceeds the taxpayer's liability, the excess may be carried forward and applied against the taxpayer's liability in succeeding calendar years in the manner provided under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.

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

The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year

This subsection (h-5) is exempt from the provisions of Section 250.

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

Any credit earned on or after December 31, 1986 under this subsection which is unused in the year the credit is computed

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

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

(j) Training expense credit. Beginning with tax years ending on or after December 31, 1986 and prior to December 31, 2003, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) under this Section for all

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

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

(k) Research and development credit. For tax years ending

after July 1, 1990 and prior to December 31, 2003, and beginning again for tax years ending on or after December 31, 2004, and ending prior to January 1, 2022, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for increasing research activities in this State. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 6 1/2% of the qualifying expenditures for increasing research activities in this State. For partners, shareholders of subchapter S corporations, and owners of limited liability companies, if the liability company is treated as a partnership for purposes of federal and State income taxation, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

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

period, and "base period" means the 3 taxable years immediately preceding the taxable year for which the determination is being made.

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

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

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

It is the intent of the General Assembly that the research and development credit under this subsection (k) shall apply continuously for all tax years ending on or after December 31, 2004 and ending prior to January 1, 2022, including, but not limited to, the period beginning on January 1, 2016 and ending on the effective date of this amendatory Act of the 100th General Assembly. All actions taken in reliance on the continuation of the credit under this subsection (k) by any taxpayer are hereby validated.

(1) Environmental Remediation Tax Credit.

(i) For tax years ending after December 31, 1997 and on or before December 31, 2001, a taxpayer shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for certain amounts paid for unreimbursed eligible remediation costs, as specified in this subsection. For purposes of this Section, "unreimbursed eligible remediation costs" means costs approved by the Illinois Environmental Protection Agency ("Agency") under Section 58.14 of the Environmental Protection Act that were paid in performing environmental remediation at a site for which a No Further Remediation Letter was issued by the Agency and recorded under Section 58.10 of the Environmental Protection Act. The credit must be claimed for the taxable year in which Agency approval of the eligible remediation costs is granted. The credit is not available to any taxpayer if the taxpayer or any related

party caused or contributed to, in any material respect, a release of regulated substances on, in, or under the site that was identified and addressed by the remedial action pursuant to the Site Remediation Program of the Environmental Protection Act. After the Pollution Control Board rules are adopted pursuant to the Illinois Administrative Procedure Act for the administration and enforcement of Section 58.9 of the Environmental Protection Act, determinations as to credit availability for purposes of this Section shall be made consistent with those rules. For purposes of this Section, "taxpayer" includes a person whose tax attributes the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site, except that the \$100,000 threshold shall not apply to any site contained in an enterprise zone as determined by the Department of Commerce and Community Affairs (now Department of Commerce and Economic Opportunity). The total credit allowed shall not exceed \$40,000 per year with a maximum total of \$150,000 per site. For partners and

shareholders of subchapter S corporations, there shall be allowed a credit under this subsection to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. The term "unused credit" does not include any amounts of unreimbursed eligible remediation costs in excess of the maximum credit per site authorized under paragraph (i). This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the assignor's intent to sell the remediation site and the

amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

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

(m) Education expense credit. Beginning with tax years ending after December 31, 1999, a taxpayer who is the custodian of one or more qualifying pupils shall be allowed a credit against the tax imposed by subsections (a) and (b) of this Section for qualified education expenses incurred on behalf of the qualifying pupils. The credit shall be equal to 25% of qualified education expenses, but in no event may the total credit under this subsection claimed by a family that is the custodian of qualifying pupils exceed (i) \$500 for tax years ending prior to December 31, 2017, and (ii) \$750 for tax years ending on or after December 31, 2017. In no event shall a credit under this subsection reduce the taxpayer's liability under this Act to less than zero. Notwithstanding any other provision of law, for taxable years beginning on or after January 1, 2017, no taxpayer may claim a credit under this subsection (m) if the taxpayer's adjusted gross income for the taxable year exceeds (i) \$500,000, in the case of spouses filing a joint federal tax return or (ii) \$250,000, in the case of all other taxpayers. This subsection is exempt from the

provisions of Section 250 of this Act.

For purposes of this subsection:

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

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

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

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

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

(i) For tax years ending on or after December 31, 2006,

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

the taxpayer has succeeded to under Section 381 of the Internal Revenue Code and "related party" includes the persons disallowed a deduction for losses by paragraphs (b), (c), and (f)(1) of Section 267 of the Internal Revenue Code by virtue of being a related taxpayer, as well as any of its partners. The credit allowed against the tax imposed by subsections (a) and (b) shall be equal to 25% of the unreimbursed eligible remediation costs in excess of \$100,000 per site.

(ii) A credit allowed under this subsection that is unused in the year the credit is earned may be carried forward to each of the 5 taxable years following the year for which the credit is first earned until it is used. This credit shall be applied first to the earliest year for which there is a liability. If there is a credit under this subsection from more than one tax year that is available to offset a liability, the earliest credit arising under this subsection shall be applied first. A credit allowed under this subsection may be sold to a buyer as part of a sale of all or part of the remediation site for which the credit was granted. The purchaser of a remediation site and the tax credit shall succeed to the unused credit and remaining carry-forward period of the seller. To perfect the transfer, the assignor shall record the transfer in the chain of title for the site and provide written notice to the Director of the Illinois Department of Revenue of the

assignor's intent to sell the remediation site and the amount of the tax credit to be transferred as a portion of the sale. In no event may a credit be transferred to any taxpayer if the taxpayer or a related party would not be eligible under the provisions of subsection (i).

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

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

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

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

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

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

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

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

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

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

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

(Source: P.A. 100-22, eff. 7-6-17.)

(35 ILCS 5/211)

Sec. 211. Economic Development for a Growing Economy Tax Credit. For tax years beginning on or after January 1, 1999, a Taxpayer who has entered into an Agreement (including a New Construction EDGE Agreement) under the Economic Development for a Growing Economy Tax Credit Act is entitled to a credit against the taxes imposed under subsections (a) and (b) of Section 201 of this Act in an amount to be determined in the Agreement. If the Taxpayer is a partnership or Subchapter S corporation, the credit shall be allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and subchapter S of the Internal Revenue Code. The Department, in cooperation with the Department of Commerce and Economic Opportunity, shall prescribe rules to enforce and administer the provisions of this Section. This Section is exempt from the provisions of Section 250 of this Act.

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

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

Incremental Income Tax (as defined in Section 5-5 of the Economic Development for a Growing Economy Tax Credit Act).

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

(3) The amount of the credit shall be determined on an annual basis. Except as applied in a carryover year pursuant to Section 211(4) of this Act, the credit may not be applied against any State income tax liability in more than 10 taxable years; provided, however, that (i) an eligible business certified by the Department of Commerce and Economic Opportunity under the Corporate Headquarters Relocation Act may not apply the credit against any of its State income tax liability in more than 15 taxable years and (ii) credits allowed to that eligible business are subject to the conditions and requirements set forth in Sections 5-35 and 5-45 of the Economic Development for a Growing Economy Tax Credit Act and Section 5-51 as applicable to New Construction EDGE Credits.

(4) The credit may not exceed the amount of taxes imposed pursuant to subsections (a) and (b) of Section 201 of this Act. Any credit that is unused in the year the credit is computed may be carried forward and applied to the tax liability of the 5 taxable years following the

excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first.

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

(6) For purposes of this Section, the terms "Agreement", "Incremental Income Tax", "New Construction EDGE Agreement", "New Construction EDGE Credit", "New Construction EDGE Incremental Income Tax", and "Noncompliance Date" have the same meaning as when used in the Economic Development for a Growing Economy Tax Credit Act.

(Source: P.A. 94-793, eff. 5-19-06.)

(35 ILCS 5/221)

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

(a) For taxable years that begin on or after January 1, 2012 and begin prior to January 1, 2018, there shall be allowed a tax credit against the tax imposed by subsections (a) and (b) of Section 201 of this Act in an amount equal to 25% of qualified expenditures incurred by a qualified taxpayer during the taxable year in the restoration and preservation of a qualified historic structure located in a River Edge Redevelopment Zone pursuant to a qualified rehabilitation plan, provided that the total amount of such expenditures (i) must equal \$5,000 or more and (ii) must exceed 50% of the purchase price of the property.

(a-1) For taxable years that begin on or after January 1, 2018 and end prior to January 1, 2022, there shall be allowed a tax credit against the tax imposed by subsections (a) and (b) of Section 201 of this Act in an aggregate amount equal to 25% of qualified expenditures incurred by a qualified taxpayer in the restoration and preservation of a qualified historic structure located in a River Edge Redevelopment Zone pursuant to a qualified rehabilitation plan, provided that the total amount of such expenditures must (i) equal \$5,000 or more and (ii) exceed the adjusted basis of the qualified historic

structure on the first day the qualified rehabilitation plan begins. For any rehabilitation project, regardless of duration or number of phases, the project's compliance with the foregoing provisions (i) and (ii) shall be determined based on the aggregate amount of qualified expenditures for the entire project and may include expenditures incurred under subsection (a), this subsection, or both subsection (a) and this subsection. If the qualified rehabilitation plan spans multiple years, the aggregate credit for the entire project shall be allowed in the last taxable year, except for phased rehabilitation projects, which may receive credits upon completion of each phase. Before obtaining the first phased credit: (A) the total amount of such expenditures must meet the requirements of provisions (i) and (ii) of this subsection; (B) the rehabilitated portion of the qualified historic structure must be placed in service; and (C) the requirements of subsection (b) must be met.

(a-2) For taxable years beginning on or after January 1, 2021 and ending prior to January 1, 2022, there shall be allowed a tax credit against the tax imposed by subsections (a) and (b) of Section 201 as provided in Section 10-10.3 of the River Edge Redevelopment Zone Act. The credit allowed under this subsection (a-2) shall apply only to taxpayers that make a capital investment of at least \$1,000,000 in a qualified rehabilitation plan.

The credit or credits may not reduce the taxpayer's

liability to less than zero. If the amount of the credit or credits exceeds the taxpayer's liability, the excess may be carried forward and applied against the taxpayer's liability in succeeding calendar years in the manner provided under paragraph (4) of Section 211 of this Act. The credit or credits shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one taxable year that are available to offset a liability, the earlier credit shall be applied first.

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

The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year.

(b) To obtain a tax credit pursuant to this Section, the taxpayer must apply with the Department of Natural Resources. The Department of Natural Resources shall determine the amount of eligible rehabilitation costs and expenses in addition to the amount of the River Edge construction jobs credit within 45

days of receipt of a complete application. The taxpayer must submit a certification of costs prepared by an independent certified public accountant that certifies (i) the project expenses, (ii) whether those expenses are qualified expenditures, and (iii) that the qualified expenditures exceed the adjusted basis of the qualified historic structure on the first day the qualified rehabilitation plan commenced. The Department of Natural Resources is authorized, but not required, to accept this certification of costs to determine the amount of qualified expenditures and the amount of the credit. The Department of Natural Resources shall provide guidance as to the minimum standards to be followed in the preparation of such certification. The Department of Natural Resources and the National Park Service shall determine whether the rehabilitation is consistent with the United States Secretary of the Interior's Standards for Rehabilitation.

(b-1) Upon completion of the project and approval of the complete application, the Department of Natural Resources shall issue a single certificate in the amount of the eligible credits equal to 25% of qualified expenditures incurred during the eligible taxable years, as defined in subsections (a) and (a-1), excepting any credits awarded under subsection (a) prior to January 1, 2019 (the effective date of Public Act 100-629) ~~this amendatory Act of the 100th General Assembly~~ and any phased credits issued prior to the eligible taxable year under subsection (a-1). At the time the certificate is issued, an

issuance fee up to the maximum amount of 2% of the amount of the credits issued by the certificate may be collected from the applicant to administer the provisions of this Section. If collected, this issuance fee shall be deposited into the Historic Property Administrative Fund, a special fund created in the State treasury. Subject to appropriation, moneys in the Historic Property Administrative Fund shall be provided to the Department of Natural Resources as reimbursement ~~Department of Natural Resources~~ for the costs associated with administering this Section.

(c) The taxpayer must attach the certificate to the tax return on which the credits are to be claimed. The tax credit under this Section may not reduce the taxpayer's liability to less than zero. If the amount of the credit exceeds the tax liability for the year, the excess credit may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year.

(c-1) Subject to appropriation, moneys in the Historic Property Administrative Fund shall be used, on a biennial basis beginning at the end of the second fiscal year after January 1, 2019 (the effective date of Public Act 100-629) ~~this amendatory Act of the 100th General Assembly~~, to hire a qualified third party to prepare a biennial report to assess the overall economic impact to the State from the qualified rehabilitation projects under this Section completed in that year and in previous years. The overall economic impact shall include at

least: (1) the direct and indirect or induced economic impacts of completed projects; (2) temporary, permanent, and construction jobs created; (3) sales, income, and property tax generation before, during construction, and after completion; and (4) indirect neighborhood impact after completion. The report shall be submitted to the Governor and the General Assembly. The report to the General Assembly shall be filed with the Clerk of the House of Representatives and the Secretary of the Senate in electronic form only, in the manner that the Clerk and the Secretary shall direct.

(c-2) The Department of Natural Resources may adopt rules to implement this Section in addition to the rules expressly authorized in this Section.

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

"Phased rehabilitation" means a project that is completed in phases, as defined under Section 47 of the federal Internal Revenue Code and pursuant to National Park Service regulations at 36 C.F.R. 67.

"Placed in service" means the date when the property is placed in a condition or state of readiness and availability for a specifically assigned function as defined under Section 47 of the federal Internal Revenue Code and federal Treasury Regulation Sections 1.46 and 1.48.

"Qualified expenditure" means all the costs and expenses defined as qualified rehabilitation expenditures under Section

47 of the federal Internal Revenue Code that were incurred in connection with a qualified historic structure.

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

"Qualified rehabilitation plan" means a project that is approved by the Department of Natural Resources and the National Park Service as being consistent with the United States Secretary of the Interior's Standards for Rehabilitation.

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

members, or owners documenting any alternate distribution method.

(Source: P.A. 99-914, eff. 12-20-16; 100-236, eff. 8-18-17; 100-629, eff. 1-1-19; 100-695, eff. 8-3-18; revised 10-18-18.)

Section 20-15. The Economic Development for a Growing Economy Tax Credit Act is amended by changing Section 5-5 and by adding Sections 5-51 and 5-56 as follows:

(35 ILCS 10/5-5)

Sec. 5-5. Definitions. As used in this Act:

"Agreement" means the Agreement between a Taxpayer and the Department under the provisions of Section 5-50 of this Act.

"Applicant" means a Taxpayer that is operating a business located or that the Taxpayer plans to locate within the State of Illinois and that is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, assembling, warehousing, or distributing products, conducting research and development, providing tourism services, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, retail food, health, or professional services. "Applicant" does not include a Taxpayer who closes or substantially reduces an operation at one location in the State and relocates substantially the same operation to another location in the State. This does not prohibit a Taxpayer from expanding its operations at another

location in the State, provided that existing operations of a similar nature located within the State are not closed or substantially reduced. This also does not prohibit a Taxpayer from moving its operations from one location in the State to another location in the State for the purpose of expanding the operation provided that the Department determines that expansion cannot reasonably be accommodated within the municipality in which the business is located, or in the case of a business located in an incorporated area of the county, within the county in which the business is located, after conferring with the chief elected official of the municipality or county and taking into consideration any evidence offered by the municipality or county regarding the ability to accommodate expansion within the municipality or county.

"Committee" means the Illinois Business Investment Committee created under Section 5-25 of this Act within the Illinois Economic Development Board.

"Credit" means the amount agreed to between the Department and Applicant under this Act, but not to exceed the lesser of: (1) the sum of (i) 50% of the Incremental Income Tax attributable to New Employees at the Applicant's project and (ii) 10% of the training costs of New Employees; or (2) 100% of the Incremental Income Tax attributable to New Employees at the Applicant's project. However, if the project is located in an underserved area, then the amount of the Credit may not exceed the lesser of: (1) the sum of (i) 75% of the Incremental Income

Tax attributable to New Employees at the Applicant's project and (ii) 10% of the training costs of New Employees; or (2) 100% of the Incremental Income Tax attributable to New Employees at the Applicant's project. If an Applicant agrees to hire the required number of New Employees, then the maximum amount of the Credit for that Applicant may be increased by an amount not to exceed 25% of the Incremental Income Tax attributable to retained employees at the Applicant's project; provided that, in order to receive the increase for retained employees, the Applicant must provide the additional evidence required under paragraph (3) of subsection (b) of Section 5-25.

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

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

"Full-time Employee" means an individual who is employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the Applicant for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment to Applicant.

"Incremental Income Tax" means the total amount withheld

during the taxable year from the compensation of New Employees and, if applicable, retained employees under Article 7 of the Illinois Income Tax Act arising from employment at a project that is the subject of an Agreement.

"New Construction EDGE Agreement" means the Agreement between a Taxpayer and the Department under the provisions of Section 5-51 of this Act.

"New Construction EDGE Credit" means an amount agreed to between the Department and the Applicant under this Act as part of a New Construction EDGE Agreement that does not exceed 50% of the Incremental Income Tax attributable to New Construction EDGE Employees at the Applicant's project; however, if the New Construction EDGE Project is located in an underserved area, then the amount of the New Construction EDGE Credit may not exceed 75% of the Incremental Income Tax attributable to New Construction EDGE Employees at the Applicant's New Construction EDGE Project.

"New Construction EDGE Employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of a New Construction EDGE Project, pursuant to a New Construction EDGE Agreement.

"New Construction EDGE Incremental Income Tax" means the total amount withheld during the taxable year from the compensation of New Construction EDGE Employees.

"New Construction EDGE Project" means the building of a Taxpayer's structure or building, or making improvements of any

kind to real property. "New Construction EDGE Project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"New Employee" means:

(a) A Full-time Employee first employed by a Taxpayer in the project that is the subject of an Agreement and who is hired after the Taxpayer enters into the tax credit Agreement.

(b) The term "New Employee" does not include:

(1) an employee of the Taxpayer who performs a job that was previously performed by another employee, if that job existed for at least 6 months before hiring the employee;

(2) an employee of the Taxpayer who was previously employed in Illinois by a Related Member of the Taxpayer and whose employment was shifted to the Taxpayer after the Taxpayer entered into the tax credit Agreement; or

(3) a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or an indirect ownership interest of at least 5% in the profits, capital, or value of the Taxpayer.

(c) Notwithstanding paragraph (1) of subsection (b), an employee may be considered a New Employee under the

Agreement if the employee performs a job that was previously performed by an employee who was:

(1) treated under the Agreement as a New Employee;
and

(2) promoted by the Taxpayer to another job.

(d) Notwithstanding subsection (a), the Department may award Credit to an Applicant with respect to an employee hired prior to the date of the Agreement if:

(1) the Applicant is in receipt of a letter from the Department stating an intent to enter into a credit Agreement;

(2) the letter described in paragraph (1) is issued by the Department not later than 15 days after the effective date of this Act; and

(3) the employee was hired after the date the letter described in paragraph (1) was issued.

"Noncompliance Date" means, in the case of a Taxpayer that is not complying with the requirements of the Agreement or the provisions of this Act, the day following the last date upon which the Taxpayer was in compliance with the requirements of the Agreement and the provisions of this Act, as determined by the Director, pursuant to Section 5-65.

"Pass Through Entity" means an entity that is exempt from the tax under subsection (b) or (c) of Section 205 of the Illinois Income Tax Act.

"Professional Employer Organization" (PEO) means an

employee leasing company, as defined in Section 206.1(A)(2) of the Illinois Unemployment Insurance Act.

"Related Member" means a person that, with respect to the Taxpayer during any portion of the taxable year, is any one of the following:

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

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

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

(4) A corporation and any party related to that

corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the aggregate at least 50% of the profits, capital, stock, or value of the Taxpayer.

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

"Taxpayer" means an individual, corporation, partnership, or other entity that has any Illinois Income Tax liability.

"Underserved area" means a geographic area that meets one or more of the following conditions:

(1) the area has a poverty rate of at least 20% according to the latest federal decennial census;

(2) 75% or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education;

(3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

(4) the area has an average unemployment rate, as

determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application.

(Source: P.A. 100-511, eff. 9-18-17.)

(35 ILCS 10/5-51 new)

Sec. 5-51. New Construction EDGE Agreement.

(a) Notwithstanding any other provisions of this Act, and in addition to any Credit otherwise allowed under this Act, beginning on January 1, 2021, there is allowed a New Construction EDGE Credit for eligible Applicants that meet the following criteria:

(1) the Department has certified that the Applicant meets all requirements of Sections 5-15, 5-20, and 5-25; and

(2) the Department has certified that, pursuant to Section 5-20, the Applicant's Agreement includes a capital investment of at least \$10,000,000 in a New Construction EDGE Project to be placed in service within the State as a direct result of an Agreement entered into pursuant to this Section.

(b) The Department shall notify each Applicant during the application process that their project is eligible for a New Construction EDGE Credit. The Department shall create a

separate application to be filled out by the Applicant regarding the New Construction EDGE credit. The Application shall include the following:

(1) a detailed description of the New Construction EDGE Project that is subject to the New Construction EDGE Agreement, including the location and amount of the investment and jobs created or retained;

(2) the duration of the New Construction EDGE Credit and the first taxable year for which the Credit may be claimed;

(3) the New Construction EDGE Credit amount that will be allowed for each taxable year;

(4) a requirement that the Director is authorized to verify with the appropriate State agencies the amount of the incremental income tax withheld by a Taxpayer, and after doing so, shall issue a certificate to the Taxpayer stating that the amounts have been verified;

(5) the amount of the capital investment, which may at no point be less than \$10,000,000, the time period of placing the New Construction EDGE Project in service, and the designated location in Illinois for the investment;

(6) a requirement that the Taxpayer shall provide written notification to the Director not more than 30 days after the Taxpayer determines that the capital investment of at least \$10,000,000 is not or will not be achieved or maintained as set forth in the terms and conditions of the

Agreement;

(7) a detailed provision that the Taxpayer shall be awarded a New Construction EDGE Credit upon the verified completion and occupancy of a New Construction EDGE Project; and

(8) any other performance conditions, including the ability to verify that a New Construction EDGE Project is built and completed, or that contract provisions as the Department determines are appropriate.

(c) The Department shall post on its website the terms of each New Construction EDGE Agreement entered into under this Act on or after the effective date of this amendatory Act of the 101st General Assembly. Such information shall be posted within 10 days after entering into the Agreement and must include the following:

(1) the name of the recipient business;

(2) the location of the project;

(3) the estimated value of the credit; and

(4) whether or not the project is located in an underserved area.

(d) The Department, in collaboration with the Department of Labor, shall require that certified payroll reporting, pursuant to Section 5-56 of this Act, be completed in order to verify the wages and any other necessary information which the Department may deem necessary to ascertain and certify the total number of New Construction EDGE Employees subject to a

New Construction EDGE Agreement and amount of a New Construction EDGE Credit.

(e) The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year.

(35 ILCS 10/5-56 new)

Sec. 5-56. Certified payroll.

(a) Each contractor and subcontractor that is engaged in and is executing a New Construction EDGE Project for a Taxpayer, pursuant to a New Construction EDGE Agreement shall:

(1) make and keep, for a period of 5 years from the date of the last payment made on or after the effective date of this amendatory Act of the 101st General Assembly on a contract or subcontract for a New Construction EDGE Project pursuant to a New Construction EDGE Agreement, records of all laborers and other workers employed by the contractor or subcontractor on the project; the records shall include:

(A) the worker's name;

(B) the worker's address;

(C) the worker's telephone number, if available;

(D) the worker's social security number;

(E) the worker's classification or classifications;

(F) the worker's gross and net wages paid in each pay period;

(G) the worker's number of hours worked each day;

(H) the worker's starting and ending times of work each day;

(I) the worker's hourly wage rate; and

(J) the worker's hourly overtime wage rate; and

(2) no later than the 15th day of each calendar month, provide a certified payroll for the immediately preceding month to the taxpayer in charge of the project; within 5 business days after receiving the certified payroll, the taxpayer shall file the certified payroll with the Department of Labor and the Department of Commerce and Economic Opportunity; a certified payroll must be filed for only those calendar months during which construction on a New Construction EDGE Project has occurred; the certified payroll shall consist of a complete copy of the records identified in paragraph (1), but may exclude the starting and ending times of work each day; the certified payroll shall be accompanied by a statement signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor which avers that:

(A) he or she has examined the certified payroll records required to be submitted by the Act and such records are true and accurate; and

(B) the contractor or subcontractor is aware that

filing a certified payroll that he or she knows to be false is a Class A misdemeanor.

A general contractor is not prohibited from relying on a certified payroll of a lower-tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification.

Any contractor or subcontractor subject to this Section, and any officer, employee, or agent of such contractor or subcontractor whose duty as an officer, employee, or agent it is to file a certified payroll under this Section, who willfully fails to file such a certified payroll on or before the date such certified payroll is required to be filed and any person who willfully files a false certified payroll that is false as to any material fact is in violation of this Act and guilty of a Class A misdemeanor.

The taxpayer in charge of the project shall keep the records submitted in accordance with this subsection on or after the effective date of this amendatory Act of the 101st General Assembly for a period of 5 years from the date of the last payment for work on a contract or subcontract for the project.

The records submitted in accordance with this subsection shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The Department of Labor shall accept any reasonable submissions

by the contractor that meet the requirements of this subsection and shall share the information with the Department in order to comply with the awarding of New Construction EDGE Credits. A contractor, subcontractor, or public body may retain records required under this Section in paper or electronic format.

Upon 7 business days' notice, the contractor and each subcontractor shall make available for inspection and copying at a location within this State during reasonable hours, the records identified in paragraph (1) of this subsection to the taxpayer in charge of the project, its officers and agents, the Director of Labor and his deputies and agents, and to federal, State, or local law enforcement agencies and prosecutors.

Section 20-20. The River Edge Redevelopment Zone Act is amended by changing Section 10-3 and by adding Sections 10-10.3 and 10-10.4 as follows:

(65 ILCS 115/10-3)

Sec. 10-3. Definitions. As used in this Act:

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

"River Edge Redevelopment Zone" means an area of the State certified by the Department as a River Edge Redevelopment Zone pursuant to this Act.

"Designated zone organization" means an association or entity: (1) the members of which are substantially all

residents of the River Edge Redevelopment Zone or of the municipality in which the River Edge Redevelopment Zone is located; (2) the board of directors of which is elected by the members of the organization; (3) that satisfies the criteria set forth in Section 501(c) (3) or 501(c) (4) of the Internal Revenue Code; and (4) that exists primarily for the purpose of performing within the zone, for the benefit of the residents and businesses thereof, any of the functions set forth in Section 8 of this Act.

"Incremental income tax" means the total amount withheld during the taxable year from the compensation of River Edge Construction Jobs Employees.

"Agency" means: each officer, board, commission, and agency created by the Constitution, in the executive branch of State government, other than the State Board of Elections; each officer, department, board, commission, agency, institution, authority, university, and body politic and corporate of the State; each administrative unit or corporate outgrowth of the State government that is created by or pursuant to statute, other than units of local government and their officers, school districts, and boards of election commissioners; and each administrative unit or corporate outgrowth of the above and as may be created by executive order of the Governor. No entity is an "agency" for the purposes of this Act unless the entity is authorized by law to make rules or regulations.

"River Edge construction jobs credit" means an amount equal

to 50% of the incremental income tax attributable to River Edge construction employees employed on a River Edge construction jobs project. However, the amount may equal 75% of the incremental income tax attributable to River Edge construction employees employed on a River Edge construction jobs project located in an underserved area. The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year.

"River Edge construction jobs employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of a River Edge construction jobs project.

"River Edge construction jobs project" means building a structure or building, or making improvements of any kind to real property, in a River Edge Redevelopment Zone that is built or improved in the course of completing a qualified rehabilitation plan. "River Edge construction jobs project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or

entities outside the agency, (ii) intra-agency memoranda, or (iii) the prescription of standardized forms.

"Underserved area" means a geographic area that meets one or more of the following conditions:

(1) the area has a poverty rate of at least 20% according to the latest federal decennial census;

(2) 75% or more of the children in the area participate in the federal free lunch program according to reported statistics from the State Board of Education;

(3) at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

(4) the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application.

(Source: P.A. 94-1021, eff. 7-12-06.)

(65 ILCS 115/10-10.3 new)

Sec. 10-10.3. River Edge Construction Jobs Credit.

(a) Beginning on January 1, 2021, a business entity may receive a tax credit against the tax imposed under subsections (a) and (b) of Section 201 in an amount equal to 50% (or 75% if the project is located in an underserved area) of the amount of

the incremental income tax attributable to River Edge construction jobs employees employed in the course of completing a River Edge construction jobs project. The credit allowed under this Section shall apply only to taxpayers that make a capital investment of at least \$1,000,000 in a qualified rehabilitation plan.

(b) A business entity seeking a credit under this Section must submit an application to the Department describing the nature and benefit of the River Edge construction jobs project to the qualified rehabilitation project and the River Edge Redevelopment Zone. The Department may adopt any necessary rules in order to administer the provisions of this Section.

(c) Within 45 days after the receipt of an application, the Department shall give notice to the applicant as to whether the application has been approved or disapproved. If the Department disapproves the application, it shall specify the reasons for this decision and allow 60 days for the applicant to amend and resubmit its application. The Department shall provide assistance upon request to applicants. Resubmitted applications shall receive the Department's approval or disapproval within 30 days of resubmission. Those resubmitted applications satisfying initial Department objectives shall be approved unless reasonable circumstances warrant disapproval.

(d) On an annual basis, the designated zone organization shall furnish a statement to the Department on the programmatic and financial status of any approved project and an audited

financial statement of the project.

(e) The Department shall certify to the Department of Revenue the identity of the taxpayers who are eligible for River Edge construction jobs credits and the amounts of River Edge construction jobs credits awarded in each taxable year.

(f) The Department, in collaboration with the Department of Labor, shall require certified payroll reporting, pursuant to Section 10-10.4 of this Act, be completed in order to verify the wages and any other necessary information which the Department may deem necessary to ascertain and certify the total number of River Edge construction jobs employees and determine the amount of a River Edge construction jobs credit.

(g) The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of this amendatory Act of the 101st General Assembly) shall not exceed \$20,000,000 in any State fiscal year.

(65 ILCS 115/10-10.4 new)

Sec. 10-10.4. Certified payroll.

(a) Any contractor and each subcontractor who is engaged in and is executing a River Edge construction jobs project for a taxpayer that is entitled to a credit pursuant to Section 10-10.3 of this Act shall:

(1) make and keep, for a period of 5 years from the date of the last payment made on or after the effective date of this amendatory Act of the 101st General Assembly

on a contract or subcontract for a River Edge Construction Jobs Project in a River Edge Redevelopment Zone records of all laborers and other workers employed by them on the project; the records shall include:

(A) the worker's name;

(B) the worker's address;

(C) the worker's telephone number, if available;

(D) the worker's social security number;

(E) the worker's classification or classifications;

(F) the worker's gross and net wages paid in each pay period;

(G) the worker's number of hours worked each day;

(H) the worker's starting and ending times of work each day;

(I) the worker's hourly wage rate; and

(J) the worker's hourly overtime wage rate;

(2) no later than the 15th day of each calendar month, provide a certified payroll for the immediately preceding month to the taxpayer in charge of the project; within 5 business days after receiving the certified payroll, the taxpayer shall file the certified payroll with the Department of Labor and the Department of Commerce and Economic Opportunity; a certified payroll must be filed for only those calendar months during which construction on a River Edge Construction Jobs Project has occurred; the

certified payroll shall consist of a complete copy of the records identified in paragraph (1), but may exclude the starting and ending times of work each day; the certified payroll shall be accompanied by a statement signed by the contractor or subcontractor or an officer, employee, or agent of the contractor or subcontractor which avers that:

(A) he or she has examined the certified payroll records required to be submitted and such records are true and accurate; and

(B) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor.

A general contractor is not prohibited from relying on a certified payroll of a lower-tier subcontractor, provided the general contractor does not knowingly rely upon a subcontractor's false certification.

Any contractor or subcontractor subject to this Section, and any officer, employee, or agent of such contractor or subcontractor whose duty as an officer, employee, or agent it is to file a certified payroll under this Section, who willfully fails to file such a certified payroll on or before the date such certified payroll is required to be filed and any person who willfully files a false certified payroll that is false as to any material fact is in violation of this Act and guilty of a Class A misdemeanor.

The taxpayer in charge of the project shall keep the

records submitted in accordance with this Section on or after the effective date of this amendatory Act of the 101st General Assembly for a period of 5 years from the date of the last payment for work on a contract or subcontract for the project.

The records submitted in accordance with this subsection shall be considered public records, except an employee's address, telephone number, and social security number, and made available in accordance with the Freedom of Information Act. The Department of Labor shall accept any reasonable submissions by the contractor that meet the requirements of this subsection and shall share the information with the Department in order to comply with the awarding of River Edge construction jobs credits. A contractor, subcontractor, or public body may retain records required under this Section in paper or electronic format.

Upon 7 business days' notice, the contractor and each subcontractor shall make available for inspection and copying at a location within this State during reasonable hours, the records identified in paragraph (1) of this subsection to the taxpayer in charge of the project, its officers and agents, the Director of Labor and his deputies and agents, and to federal, State, or local law enforcement agencies and prosecutors.

ARTICLE 25. MANUFACTURING MACHINERY AND EQUIPMENT

Section 25-5. The Use Tax Act is amended by changing

Sections 3-5 and 3-50 as follows:

(35 ILCS 105/3-5)

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

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

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

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after July 1, 2001 (the

effective date of Public Act 92-35), however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

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

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

(6) Until July 1, 2003 and beginning again on September 1, 2004 through August 30, 2014, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic

arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product. Beginning on July 1, 2017, graphic arts machinery and equipment is included in the manufacturing and assembling machinery and equipment exemption under paragraph (18).

(7) Farm chemicals.

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

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

(10) A motor vehicle that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(11) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the

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

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

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and

agricultural chemicals. This item (11) is exempt from the provisions of Section 3-90.

(12) Until June 30, 2013, fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

Beginning July 1, 2013, fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight that (i) is engaged in foreign trade or is engaged in trade between the United States and any of its possessions and (ii) transports at least one individual or package for hire from the city of origination to the city of final destination on the same aircraft, without regard to a change in the flight number of that aircraft.

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

respect to which the service charge is imposed.

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

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

(16) Until July 1, 2023, coal and aggregate exploration, mining, off-highway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code. The changes made to this Section by Public Act 97-767 apply on and after July 1, 2003, but no claim for credit or refund is allowed on or after August 16, 2013 (the effective date of Public Act 98-456) for such taxes paid during the period beginning July 1, 2003 and ending on August 16, 2013 (the effective date of Public Act 98-456).

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

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser. The exemption provided by this paragraph (18) includes production related tangible personal property, as defined in Section 3-50, purchased on or after July 1, 2019. The exemption provided by this paragraph (18) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through

pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. Beginning on July 1, 2017, the exemption provided by this paragraph (18) includes, but is not limited to, graphic arts machinery and equipment, as defined in paragraph (6) of this Section.

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

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

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

(22) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis,

analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by

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

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

(25) Beginning with taxable years ending on or after

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

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" as that term is used in the Wildlife Code. This paragraph is exempt from the provisions of Section 3-90.

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

that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(28) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts

for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90.

(30) Beginning January 1, 2001 and through June 30, 2016, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article V of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act, or in a licensed facility as defined in the ID/DD Community Care Act, the MC/DD Act, or the Specialized Mental Health Rehabilitation Act of 2013.

(31) Beginning on August 2, 2001 (the effective date of Public Act 92-227), computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption

identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(32) Beginning on August 2, 2001 (the effective date of Public Act 92-227), personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any

other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that

motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(34) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-90.

(35) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose

lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to the use of qualifying tangible personal property by persons who modify, refurbish, complete, repair, replace, or maintain aircraft and who (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations. The changes made to this paragraph (35) by Public Act 98-534 are declarative of existing law.

(36) Tangible personal property purchased by a public-facilities corporation, as described in Section 11-65-10 of the Illinois Municipal Code, for purposes of constructing or furnishing a municipal convention hall, but only if the legal title to the municipal convention hall is transferred to the municipality without any further consideration by or on behalf of the municipality at the time of the completion of the municipal convention hall or upon the retirement or redemption of any bonds or other debt instruments issued by the public-facilities corporation in connection with the development of the municipal convention hall. This exemption includes existing public-facilities corporations as

provided in Section 11-65-25 of the Illinois Municipal Code. This paragraph is exempt from the provisions of Section 3-90.

(37) Beginning January 1, 2017, menstrual pads, tampons, and menstrual cups.

(38) Merchandise that is subject to the Rental Purchase Agreement Occupation and Use Tax. The purchaser must certify that the item is purchased to be rented subject to a rental purchase agreement, as defined in the Rental Purchase Agreement Act, and provide proof of registration under the Rental Purchase Agreement Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 3-90.

(39) Tangible personal property purchased by a purchaser who is exempt from the tax imposed by this Act by operation of federal law. This paragraph is exempt from the provisions of Section 3-90.

(Source: P.A. 99-180, eff. 7-29-15; 99-855, eff. 8-19-16; 100-22, eff. 7-6-17; 100-437, eff. 1-1-18; 100-594, eff. 6-29-18; 100-863, eff. 8-14-18; 100-1171, eff. 1-4-19; revised 1-8-19.)

(35 ILCS 105/3-50) (from Ch. 120, par. 439.3-50)

Sec. 3-50. Manufacturing and assembly exemption. The manufacturing and assembling machinery and equipment exemption includes machinery and equipment that replaces machinery and equipment in an existing manufacturing facility as well as machinery and equipment that are for use in an expanded or new

manufacturing facility. The machinery and equipment exemption also includes machinery and equipment used in the general maintenance or repair of exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. Beginning on July 1, 2017, the manufacturing and assembling machinery and equipment exemption also includes graphic arts machinery and equipment, as defined in paragraph (6) of Section 3-5. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of this amendatory Act of the 98th General Assembly are declaratory of existing law as to the meaning and scope of this exemption. For the purposes of this exemption, terms have the following meanings:

(1) "Manufacturing process" means the production of an article of tangible personal property, whether the article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by a procedure commonly regarded as manufacturing, processing, fabricating, or refining that changes some existing material into a material with a different form, use, or name. In relation

to a recognized integrated business composed of a series of operations that collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process commences with the first operation or stage of production in the series and does not end until the completion of the final product in the last operation or stage of production in the series. For purposes of this exemption, photoprocessing is a manufacturing process of tangible personal property for wholesale or retail sale.

(2) "Assembling process" means the production of an article of tangible personal property, whether the article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling that results in an article or material of a different form, use, or name.

(3) "Machinery" means major mechanical machines or major components of those machines contributing to a manufacturing or assembling process.

(4) "Equipment" includes an independent device or tool separate from machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; any subunit or assembly comprising a component of any

machinery or auxiliary, adjunct, or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns, and molds; and any parts that require periodic replacement in the course of normal operation; but does not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease.

(5) "Production related tangible personal property" means all tangible personal property that is used or consumed by the purchaser in a manufacturing facility in which a manufacturing process takes place and includes, without limitation, tangible personal property that is purchased for incorporation into real estate within a manufacturing facility, supplies and consumables used in a manufacturing facility including fuels, coolants, solvents, oils, lubricants, and adhesives, hand tools, protective apparel, and fire and safety equipment used or consumed within a manufacturing facility, and tangible personal property that is used or consumed in activities such as research and development, preproduction material handling, receiving, quality control, inventory control, storage, staging, and packaging for shipping and transportation purposes. "Production related tangible personal property" does not include (i) tangible personal

property that is used, within or without a manufacturing facility, in sales, purchasing, accounting, fiscal management, marketing, personnel recruitment or selection, or landscaping or (ii) tangible personal property that is required to be titled or registered with a department, agency, or unit of federal, State, or local government.

The manufacturing and assembling machinery and equipment exemption includes production related tangible personal property that is purchased on or after July 1, 2007 and on or before June 30, 2008 and on or after July 1, 2019. The exemption for production related tangible personal property purchased on or after July 1, 2007 and on or before June 30, 2008 is subject to both of the following limitations:

(1) The maximum amount of the exemption for any one taxpayer may not exceed 5% of the purchase price of production related tangible personal property that is purchased on or after July 1, 2007 and on or before June 30, 2008. A credit under Section 3-85 of this Act may not be earned by the purchase of production related tangible personal property for which an exemption is received under this Section.

(2) The maximum aggregate amount of the exemptions for production related tangible personal property purchased on or after July 1, 2007 and on or before June 30, 2008 awarded under this Act and the Retailers' Occupation Tax Act to all taxpayers may not exceed \$10,000,000. If the

claims for the exemption exceed \$10,000,000, then the Department shall reduce the amount of the exemption to each taxpayer on a pro rata basis.

The Department shall ~~may~~ adopt rules to implement and administer the exemption for production related tangible personal property.

The manufacturing and assembling machinery and equipment exemption includes the sale of materials to a purchaser who produces exempted types of machinery, equipment, or tools and who rents or leases that machinery, equipment, or tools to a manufacturer of tangible personal property. This exemption also includes the sale of materials to a purchaser who manufactures those materials into an exempted type of machinery, equipment, or tools that the purchaser uses himself or herself in the manufacturing of tangible personal property. This exemption includes the sale of exempted types of machinery or equipment to a purchaser who is not the manufacturer, but who rents or leases the use of the property to a manufacturer. The purchaser of the machinery and equipment who has an active resale registration number shall furnish that number to the seller at the time of purchase. A user of the machinery, equipment, or tools without an active resale registration number shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, and that certificate shall be available to the Department for inspection or audit. The Department shall

prescribe the form of the certificate. Informal rulings, opinions, or letters issued by the Department in response to an inquiry or request for an opinion from any person regarding the coverage and applicability of this exemption to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion, or letter contains trade secrets or other confidential information, where possible, the Department shall delete that information before publication. Whenever informal rulings, opinions, or letters contain a policy of general applicability, the Department shall formulate and adopt that policy as a rule in accordance with the Illinois Administrative Procedure Act.

The manufacturing and assembling machinery and equipment exemption is exempt from the provisions of Section 3-90.

(Source: P.A. 100-22, eff. 7-6-17.)

Section 25-10. The Service Use Tax Act is amended by changing Section 2 as follows:

(35 ILCS 110/2) (from Ch. 120, par. 439.32)

Sec. 2. Definitions. In this Act:

"Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as tangible

personal property in the regular course of business. "Use" does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property, (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.

"Purchased from a serviceman" means the acquisition of the ownership of, or title to, tangible personal property through a sale of service.

"Purchaser" means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property.

"Cost price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him or her by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by

the subcontractor for the purchase of such property.

"Selling price" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the purchaser, the tax that is imposed by this Act.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of service" means any transaction except:

(1) a retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(2) a sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(3) except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the

rendering of service for or by any governmental body, or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(4) (blank).

(4a) a sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors, or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce so long as so used by interstate carriers for hire, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(4a-5) on and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000

pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(5) a sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such

sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Use Tax or Service Occupation Tax, rather than Use Tax or Retailers' Occupation Tax. The exemption provided by this paragraph (5) includes production related tangible personal property, as defined in Section 3-50 of the Use Tax Act, purchased on or after July 1, 2019. The exemption provided by this paragraph (5) does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. The exemption under this paragraph (5) is exempt from the provisions of Section 3-75.

(5a) the repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the

transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property to a destination outside Illinois, for use outside Illinois.

(5b) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(6) until July 1, 2003, a sale or transfer of distillation machinery and equipment, sold as a unit or kit and assembled or installed by the retailer, which machinery and equipment is certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of such user and not subject to sale or resale.

(7) at the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of

the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35%, or 75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production, of the aggregate annual total gross receipts from all sales of service. The purchase of such tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (5) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. On and after July 1, 2017, exemption (5) also

includes graphic arts machinery and equipment, as defined in paragraph (5) of Section 3-5. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. For the purposes of exemption (5), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product

in the last operation or stage of production in the series; and further, for purposes of exemption (5), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for

wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The user of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (5) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (3) of this Section shall make tax-free purchases unless it has an active exemption identification

number issued by the Department.

The purchase, employment and transfer of such tangible personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of service or of tangible personal property within the meaning of this Act.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

"Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman:

- (1) having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State;

- (1.1) having a contract with a person located in this State under which the person, for a commission or other

consideration based on the sale of service by the serviceman, directly or indirectly refers potential customers to the serviceman by providing to the potential customers a promotional code or other mechanism that allows the serviceman to track purchases referred by such persons. Examples of mechanisms that allow the serviceman to track purchases referred by such persons include but are not limited to the use of a link on the person's Internet website, promotional codes distributed through the person's hand-delivered or mailed material, and promotional codes distributed by the person through radio or other broadcast media. The provisions of this paragraph (1.1) shall apply only if the cumulative gross receipts from sales of service by the serviceman to customers who are referred to the serviceman by all persons in this State under such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December; a serviceman meeting the requirements of this paragraph (1.1) shall be presumed to be maintaining a place of business in this State but may rebut this presumption by submitting proof that the referrals or other activities pursued within this State by such persons were not sufficient to meet the nexus standards of the United States Constitution during the preceding 4 quarterly periods;

(1.2) beginning July 1, 2011, having a contract with a

person located in this State under which:

(A) the serviceman sells the same or substantially similar line of services as the person located in this State and does so using an identical or substantially similar name, trade name, or trademark as the person located in this State; and

(B) the serviceman provides a commission or other consideration to the person located in this State based upon the sale of services by the serviceman.

The provisions of this paragraph (1.2) shall apply only if the cumulative gross receipts from sales of service by the serviceman to customers in this State under all such contracts exceed \$10,000 during the preceding 4 quarterly periods ending on the last day of March, June, September, and December;

(2) soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State;

(3) pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions;

(4) soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;

(5) being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State;

(6) having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section;

(7) pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State;

(8) engaging in activities in Illinois, which activities in the state in which the supply business engaging in such activities is located would constitute maintaining a place of business in that state; or

(9) beginning October 1, 2018, making sales of service to purchasers in Illinois from outside of Illinois if:

(A) the cumulative gross receipts from sales of service to purchasers in Illinois are \$100,000 or more;

or

(B) the serviceman enters into 200 or more separate transactions for sales of service to purchasers in Illinois.

The serviceman shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) of this paragraph (9) for the preceding 12-month period. If the serviceman meets the criteria of either subparagraph (A) or (B) for a 12-month period, he or she is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for one year. At the end of that one-year period, the serviceman shall determine whether the serviceman met the criteria of either subparagraph (A) or (B) during the preceding 12-month period. If the serviceman met the criteria in either subparagraph (A) or (B) for the preceding 12-month period, he or she is considered a serviceman maintaining a place of business in this State and is required to collect and remit the tax imposed under this Act and file returns for the subsequent year. If at the end of a one-year period a serviceman that was required to collect and remit the tax imposed under this Act determines that he or she did not meet the criteria in either subparagraph (A) or (B) during the preceding

12-month period, the serviceman subsequently shall determine on a quarterly basis, ending on the last day of March, June, September, and December, whether he or she meets the criteria of either subparagraph (A) or (B) for the preceding 12-month period.

(Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17; 100-587, eff. 6-4-18; 100-863, eff. 8-14-18.)

Section 25-15. The Service Occupation Tax Act is amended by changing Section 2 as follows:

(35 ILCS 115/2) (from Ch. 120, par. 439.102)

Sec. 2. In this Act:

"Transfer" means any transfer of the title to property or of the ownership of property whether or not the transferor retains title as security for the payment of amounts due him from the transferee.

"Cost Price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his or her subcontractor is

equal to 50% of the subcontractor's charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of Service" means any transaction except:

(a) A retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(b) A sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(c) Except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may

qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes.

(d) (Blank).

(d-1) A sale or transfer of tangible personal property as an incident to the rendering of service for owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(d-1.1) On and after July 1, 2003 and through June 30, 2004, a sale or transfer of a motor vehicle of the second division with a gross vehicle weight in excess of 8,000 pounds as an incident to the rendering of service if that motor vehicle is subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement

parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(d-2) The repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(d-3) A sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of

such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a destination outside Illinois, for use outside Illinois.

(d-4) Until January 1, 1997, a sale, by a registered serviceman paying tax under this Act to the Department, of special order printed materials delivered outside Illinois and which are not returned to this State, if delivery is made by the seller or agent of the seller, including an agent who causes the product to be delivered outside Illinois by a common carrier or the U.S. postal service.

(e) A sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Occupation Tax or Service Use Tax, rather than Retailers' Occupation Tax or Use Tax. The exemption provided by this paragraph (e) includes production related tangible personal property, as defined in Section 3-50 of the Use Tax Act, purchased on or after July 1, 2019. The exemption provided by this paragraph (e) does not include

machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. The exemption under this subsection (e) is exempt from the provisions of Section 3-75.

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

(g) At the election of any serviceman not required to be otherwise registered as a retailer under Section 2a of the Retailers' Occupation Tax Act, made for each fiscal year sales of service in which the aggregate annual cost price of tangible personal property transferred as an incident to the sales of service is less than 35% (75% in the case of servicemen transferring prescription drugs or servicemen engaged in graphic arts production) of the aggregate annual total gross receipts from all sales of service. The purchase of such

tangible personal property by the serviceman shall be subject to tax under the Retailers' Occupation Tax Act and the Use Tax Act. However, if a primary serviceman who has made the election described in this paragraph subcontracts service work to a secondary serviceman who has also made the election described in this paragraph, the primary serviceman does not incur a Use Tax liability if the secondary serviceman (i) has paid or will pay Use Tax on his or her cost price of any tangible personal property transferred to the primary serviceman and (ii) certifies that fact in writing to the primary serviceman.

Tangible personal property transferred incident to the completion of a maintenance agreement is exempt from the tax imposed pursuant to this Act.

Exemption (e) also includes machinery and equipment used in the general maintenance or repair of such exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. On and after July 1, 2017, exemption (e) also includes graphic arts machinery and equipment, as defined in paragraph (5) of Section 3-5. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of

Public Act 98-583 are declaratory of existing law as to the meaning and scope of this exemption. For the purposes of exemption (e), each of these terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further for purposes of exemption (e), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded

as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall furnish to the seller a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit.

Except as provided in Section 2d of this Act, the rolling stock exemption applies to rolling stock used by an interstate carrier for hire, even just between points in Illinois, if such rolling stock transports, for hire, persons whose journeys or property whose shipments originate or terminate outside Illinois.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (e) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (c) of this Section shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at Retail" means "sale at retail" as defined in the

Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

(Source: P.A. 100-22, eff. 7-6-17; 100-321, eff. 8-24-17; 100-863, eff. 8-14-18.)

Section 25-20. The Retailers' Occupation Tax Act is amended by changing Section 2-45 as follows:

(35 ILCS 120/2-45) (from Ch. 120, par. 441-45)

Sec. 2-45. Manufacturing and assembly exemption. The manufacturing and assembly machinery and equipment exemption includes machinery and equipment that replaces machinery and equipment in an existing manufacturing facility as well as machinery and equipment that are for use in an expanded or new manufacturing facility.

The machinery and equipment exemption also includes machinery and equipment used in the general maintenance or repair of exempt machinery and equipment or for in-house manufacture of exempt machinery and equipment. Beginning on July 1, 2017, the manufacturing and assembling machinery and equipment exemption also includes graphic arts machinery and equipment, as defined in paragraph (4) of Section 2-5. The machinery and equipment exemption does not include machinery and equipment used in (i) the generation of electricity for

wholesale or retail sale; (ii) the generation or treatment of natural or artificial gas for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains; or (iii) the treatment of water for wholesale or retail sale that is delivered to customers through pipes, pipelines, or mains. The provisions of this amendatory Act of the 98th General Assembly are declaratory of existing law as to the meaning and scope of this exemption. For the purposes of this exemption, terms have the following meanings:

(1) "Manufacturing process" means the production of an article of tangible personal property, whether the article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by a procedure commonly regarded as manufacturing, processing, fabricating, or refining that changes some existing material or materials into a material with a different form, use, or name. In relation to a recognized integrated business composed of a series of operations that collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process commences with the first operation or stage of production in the series and does not end until the completion of the final product in the last operation or stage of production in the series. For purposes of this exemption, photoprocessing is a manufacturing process of tangible personal property for

wholesale or retail sale.

(2) "Assembling process" means the production of an article of tangible personal property, whether the article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling that results in a material of a different form, use, or name.

(3) "Machinery" means major mechanical machines or major components of those machines contributing to a manufacturing or assembling process.

(4) "Equipment" includes an independent device or tool separate from machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; any subunit or assembly comprising a component of any machinery or auxiliary, adjunct, or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns, and molds; and any parts that require periodic replacement in the course of normal operation; but does not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease.

(5) "Production related tangible personal property" means all tangible personal property that is used or consumed by the purchaser in a manufacturing facility in which a manufacturing process takes place and includes, without limitation, tangible personal property that is purchased for incorporation into real estate within a manufacturing facility, supplies and consumables used in a manufacturing facility including fuels, coolants, solvents, oils, lubricants, and adhesives, hand tools, protective apparel, and fire and safety equipment used or consumed within a manufacturing facility, and tangible personal property that is used or consumed in activities such as research and development, preproduction material handling, receiving, quality control, inventory control, storage, staging, and packaging for shipping and transportation purposes. "Production related tangible personal property" does not include (i) tangible personal property that is used, within or without a manufacturing facility, in sales, purchasing, accounting, fiscal management, marketing, personnel recruitment or selection, or landscaping or (ii) tangible personal property that is required to be titled or registered with a department, agency, or unit of federal, State, or local government.

The manufacturing and assembling machinery and equipment exemption includes production related tangible personal property that is purchased on or after July 1, 2007 and on or

before June 30, 2008 and on or after July 1, 2019. The exemption for production related tangible personal property purchased on or after July 1, 2007 and before June 30, 2008 is subject to both of the following limitations:

(1) The maximum amount of the exemption for any one taxpayer may not exceed 5% of the purchase price of production related tangible personal property that is purchased on or after July 1, 2007 and on or before June 30, 2008. A credit under Section 3-85 of this Act may not be earned by the purchase of production related tangible personal property for which an exemption is received under this Section.

(2) The maximum aggregate amount of the exemptions for production related tangible personal property awarded under this Act and the Use Tax Act to all taxpayers may not exceed \$10,000,000. If the claims for the exemption exceed \$10,000,000, then the Department shall reduce the amount of the exemption to each taxpayer on a pro rata basis.

The Department shall ~~may~~ adopt rules to implement and administer the exemption for production related tangible personal property.

The manufacturing and assembling machinery and equipment exemption includes the sale of materials to a purchaser who produces exempted types of machinery, equipment, or tools and who rents or leases that machinery, equipment, or tools to a manufacturer of tangible personal property. This exemption

also includes the sale of materials to a purchaser who manufactures those materials into an exempted type of machinery, equipment, or tools that the purchaser uses himself or herself in the manufacturing of tangible personal property. The purchaser of the machinery and equipment who has an active resale registration number shall furnish that number to the seller at the time of purchase. A purchaser of the machinery, equipment, and tools without an active resale registration number shall furnish to the seller a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, and that certificate shall be available to the Department for inspection or audit. Informal rulings, opinions, or letters issued by the Department in response to an inquiry or request for an opinion from any person regarding the coverage and applicability of this exemption to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion, or letter contains trade secrets or other confidential information, where possible, the Department shall delete that information before publication. Whenever informal rulings, opinions, or letters contain a policy of general applicability, the Department shall formulate and adopt that policy as a rule in accordance with the Illinois Administrative Procedure Act.

The manufacturing and assembling machinery and equipment exemption is exempt from the provisions of Section 2-70.

(Source: P.A. 100-22, eff. 7-6-17.)

ARTICLE 30.BUSINESS CORPORATION ACT OF 1983

Section 30-5. The Business Corporation Act of 1983 is amended by changing Sections 14.30, 15.35, 15.65, and 15.97 as follows:

(805 ILCS 5/14.30) (from Ch. 32, par. 14.30)

Sec. 14.30. Cumulative report of changes in issued shares or paid-in capital.

(a) Each domestic corporation and each foreign corporation authorized to transact business in this State that effects any change in the number of issued shares or the amount of paid-in capital prior to January 1, 2024 that has not theretofore been reported in any report other than an annual report, interim annual report, or final transition annual report, shall execute and file, in accordance with Section 1.10 of this Act, a report with respect to the changes in its issued shares or paid-in capital:

(1) that have occurred subsequent to the last day of the third month preceding its anniversary month in the preceding year and prior to the first day of the second month immediately preceding its anniversary month in the current year; or

(2) in the case of a corporation that has established

an extended filing month, that have occurred during its fiscal year; or

(3) in the case of a statutory merger or consolidation or an amendment to the corporation's articles of incorporation that affects the number of issued shares or the amount of paid-in capital, that have occurred between the last day of the third month immediately preceding its anniversary month and the date of the merger, consolidation, or amendment or, in the case of a corporation that has established an extended filing month, that have occurred between the first day of its fiscal year and the date of the merger, consolidation, or amendment; or

(4) in the case of a statutory merger or consolidation or an amendment to the corporation's articles of incorporation that affects the number of issued shares or the amount of paid-in capital, that have occurred between the date of the merger, consolidation, or amendment (but not including the merger, consolidation, or amendment) and the first day of the second month immediately preceding its anniversary month in the current year, or in the case of a corporation that has established an extended filing month, that have occurred between the date of the merger, consolidation or amendment (but not including the merger, consolidation or amendment) and the last day of its fiscal year.

(b) The corporation shall file the report required under

subsection (a) not later than (i) the time its annual report is required to be filed in 1992 and in each subsequent year and (ii) not later than the time of filing the articles of merger, consolidation, or amendment to the articles of incorporation that affects the number of issued shares or the amount of paid-in capital of a domestic corporation or the certified copy of merger of a foreign corporation.

(c) The report shall net decreases against increases that occur during the same taxable period. The report shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is organized.

(2) A statement of the aggregate number of shares which the corporation has authority to issue, itemized by classes and series, if any, within a class.

(3) A statement of the aggregate number of issued shares as last reported to the Secretary of State in any document required or permitted by this Act to be filed, other than an annual report, interim annual report or final transition annual report, itemized by classes and series, if any, within a class.

(4) A statement, expressed in dollars, of the amount of paid-in capital of the corporation as last reported to the Secretary of State in any document required or permitted by this Act to be filed, other than an annual report, interim annual report or final transition annual report.

(5) A statement, if applicable, of the aggregate number of shares issued by the corporation not theretofore reported to the Secretary of State as having been issued, and a statement, expressed in dollars, of the value of the entire consideration received, less expenses, including commissions, paid or incurred in connection with the issuance, for, or on account of, the issuance of the shares, itemized by classes, and series, if any, within a class; and in the case of shares issued as a share dividend, the amount added or transferred to the paid-in capital of the corporation for, or on account of, the issuance of the shares; provided, however, that the report shall also include the date of each issuance made prior to the current reporting period, and the number of issued shares and consideration received in each case.

(6) A statement, if applicable, expressed in dollars, of the amount added or transferred to paid-in capital of the corporation without the issuance of shares; provided, however, that the report shall also include the date of each increase made prior to the current reporting period, and the consideration received in each case.

(7) In case of an exchange or reclassification of issued shares resulting in an increase in the amount of paid-in capital, a statement of the manner in which it was effected, and a statement, expressed in dollars, of the amount added or transferred to the paid-in capital of the

corporation as a result thereof, except any portion thereof reported under any other subsection of this Section as a part of the consideration received by the corporation for, or on account of, its issued shares; provided, however, that the report shall also include the date of each exchange or reclassification made prior to the current reporting period and the consideration received in each case.

(8) If the consideration received for the issuance of any shares not theretofore reported as having been issued consists of labor or services performed or of property, other than cash, then a statement, expressed in dollars, of the value of that consideration as fixed by the board of directors.

(9) In the case of a cancellation of shares or a reduction in paid-in capital made pursuant to Section 9.20, the aggregate reduction in paid-in capital; provided, however, that the report shall also include the date of each reduction made prior to the current reporting period.

(10) A statement of the aggregate number of issued shares itemized by classes and series, if any, within a class, after giving effect to the changes reported.

(11) A statement, expressed in dollars, of the amount of paid-in capital of the corporation after giving effect to the changes reported.

(d) No additional license fees or franchise taxes shall be

payable upon the filing of the report to the extent that license fees or franchise taxes shall have been previously paid by the corporation in respect of shares previously issued which are being exchanged for the shares the issuance of which is being reported, provided those facts are shown in the report.

(e) The report shall be made on forms prescribed and furnished by the Secretary of State.

(f) Until the report under this Section or a report under Section 14.25 shall have been filed in the Office of the Secretary of State showing a reduction in paid-in capital, the basis of the annual franchise tax payable by the corporation shall not be reduced, provided, however, in no event shall the annual franchise tax for any taxable year be reduced if the report is not filed prior to the first day of the anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the corporation of that taxable year and before payment of its annual franchise tax.

(Source: P.A. 90-421, eff. 1-1-98.)

(805 ILCS 5/15.35) (from Ch. 32, par. 15.35)

Sec. 15.35. Franchise taxes payable by domestic corporations. For the privilege of exercising its franchises in this State, each domestic corporation shall pay to the Secretary of State the following franchise taxes, computed on the basis, at the rates and for the periods prescribed in this

Act:

(a) An initial franchise tax at the time of filing its first report of issuance of shares.

(b) An additional franchise tax at the time of filing (1) a report of the issuance of additional shares, or (2) a report of an increase in paid-in capital without the issuance of shares, or (3) an amendment to the articles of incorporation or a report of cumulative changes in paid-in capital, whenever any amendment or such report discloses an increase in its paid-in capital over the amount thereof last reported in any document, other than an annual report, interim annual report or final transition annual report required by this Act to be filed in the office of the Secretary of State.

(c) An additional franchise tax at the time of filing a report of paid-in capital following a statutory merger or consolidation, which discloses that the paid-in capital of the surviving or new corporation immediately after the merger or consolidation is greater than the sum of the paid-in capital of all of the merged or consolidated corporations as last reported by them in any documents, other than annual reports, required by this Act to be filed in the office of the Secretary of State; and in addition, the surviving or new corporation shall be liable for a further additional franchise tax on the paid-in capital of each of the merged or consolidated corporations as last reported by them in any document, other than an annual report, required by this Act to be filed with the Secretary of

State from their taxable year end to the next succeeding anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the surviving or new corporation; however if the taxable year ends within the 2 month period immediately preceding the anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the surviving or new corporation the tax will be computed to the anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the surviving or new corporation in the next succeeding calendar year.

(d) An annual franchise tax payable each year with the annual report which the corporation is required by this Act to file.

(e) On or after January 1, 2020 and prior to January 1, 2021, the first \$30 in liability is exempt from the tax imposed under this Section. On or after January 1, 2021 and prior to January 1, 2022, the first \$1,000 in liability is exempt from the tax imposed under this Section. On or after January 1, 2022 and prior to January 1, 2023, the first \$10,000 in liability is exempt from the tax imposed under this Section. On or after January 1, 2023 and prior to January 1, 2024, the first \$100,000 in liability is exempt from the tax imposed under this Section. The provisions of this Section shall not require the payment of any franchise tax that would otherwise have been due

and payable on or after January 1, 2024. There shall be no refunds or proration of franchise tax for any taxes due and payable on or after January 1, 2024 on the basis that a portion of the corporation's taxable year extends beyond January 1, 2024. This amendatory Act of the 101st General Assembly shall not affect any right accrued or established, or any liability or penalty incurred prior to January 1, 2024.

(f) This Section is repealed on December 31, 2025.

(Source: P.A. 86-985.)

(805 ILCS 5/15.65) (from Ch. 32, par. 15.65)

Sec. 15.65. Franchise taxes payable by foreign corporations. For the privilege of exercising its authority to transact such business in this State as set out in its application therefor or any amendment thereto, each foreign corporation shall pay to the Secretary of State the following franchise taxes, computed on the basis, at the rates and for the periods prescribed in this Act:

(a) An initial franchise tax at the time of filing its application for authority to transact business in this State.

(b) An additional franchise tax at the time of filing (1) a report of the issuance of additional shares, or (2) a report of an increase in paid-in capital without the issuance of shares, or (3) a report of cumulative changes in paid-in capital or a report of an exchange or reclassification of shares, whenever any such report discloses an increase in its paid-in capital

over the amount thereof last reported in any document, other than an annual report, interim annual report or final transition annual report, required by this Act to be filed in the office of the Secretary of State.

(c) Whenever the corporation shall be a party to a statutory merger and shall be the surviving corporation, an additional franchise tax at the time of filing its report following merger, if such report discloses that the amount represented in this State of its paid-in capital immediately after the merger is greater than the aggregate of the amounts represented in this State of the paid-in capital of such of the merged corporations as were authorized to transact business in this State at the time of the merger, as last reported by them in any documents, other than annual reports, required by this Act to be filed in the office of the Secretary of State; and in addition, the surviving corporation shall be liable for a further additional franchise tax on the paid-in capital of each of the merged corporations as last reported by them in any document, other than an annual report, required by this Act to be filed with the Secretary of State, from their taxable year end to the next succeeding anniversary month or, in the case of a corporation which has established an extended filing month, the extended filing month of the surviving corporation; however if the taxable year ends within the 2 month period immediately preceding the anniversary month or the extended filing month of the surviving corporation, the tax will be computed to the

anniversary or, extended filing month of the surviving corporation in the next succeeding calendar year.

(d) An annual franchise tax payable each year with any annual report which the corporation is required by this Act to file.

(e) On or after January 1, 2020 and prior to January 1, 2021, the first \$30 in liability is exempt from the tax imposed under this Section. On or after January 1, 2021 and prior to January 1, 2022, the first \$1,000 in liability is exempt from the tax imposed under this Section. On or after January 1, 2022 and prior to January 1, 2023, the first \$10,000 in liability is exempt from the tax imposed under this Section. On or after January 1, 2023 and prior to January 1, 2024, the first \$100,000 in liability is exempt from the tax imposed under this Section. The provisions of this Section shall not require the payment of any franchise tax that would otherwise have been due and payable on or after January 1, 2024. There shall be no refunds or proration of franchise tax for any taxes due and payable on or after January 1, 2024 on the basis that a portion of the corporation's taxable year extends beyond January 1, 2024. This amendatory Act of the 101st General Assembly shall not affect any right accrued or established, or any liability or penalty incurred prior to January 1, 2024.

(f) This Section is repealed on December 31, 2024.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/15.97) (from Ch. 32, par. 15.97)

Sec. 15.97. Corporate Franchise Tax Refund Fund.

(a) Beginning July 1, 1993, a percentage of the amounts collected under Sections 15.35, 15.45, 15.65, and 15.75 of this Act shall be deposited into the Corporate Franchise Tax Refund Fund, a special Fund hereby created in the State treasury. From July 1, 1993, until December 31, 1994, there shall be deposited into the Fund 3% of the amounts received under those Sections. Beginning January 1, 1995, and for each fiscal year beginning thereafter, 2% of the amounts collected under those Sections during the preceding fiscal year shall be deposited into the Fund.

(b) Beginning July 1, 1993, moneys in the Fund shall be expended exclusively for the purpose of paying refunds payable because of overpayment of franchise taxes, penalties, or interest under Sections 13.70, 15.35, 15.45, 15.65, 15.75, and 16.05 of this Act and making transfers authorized under this Section. Refunds in accordance with the provisions of subsections (f) and (g) of Section 1.15 and Section 1.17 of this Act may be made from the Fund only to the extent that amounts collected under Sections 15.35, 15.45, 15.65, and 15.75 of this Act have been deposited in the Fund and remain available. On or before August 31 of each year, the balance in the Fund in excess of \$100,000 shall be transferred to the General Revenue Fund. Notwithstanding the provisions of this subsection, for the period commencing on or after July 1, 2022,

amounts in the fund shall not be transferred to the General Revenue Fund and shall be used to pay refunds in accordance with the provisions of this Act. Within a reasonable time after December 31, 2022, the Secretary of State shall direct and the Comptroller shall order transferred to the General Revenue Fund all amounts remaining in the fund.

(c) This Act shall constitute an irrevocable and continuing appropriation from the Corporate Franchise Tax Refund Fund for the purpose of paying refunds upon the order of the Secretary of State in accordance with the provisions of this Section.

(d) This Section is repealed on December 31, 2022.

(Source: P.A. 99-620, eff. 1-1-17.)

ARTICLE 99. EFFECTIVE DATE

Section 999. Effective date. This Act takes effect upon becoming law.