

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 3120 ALLOCATION OF COMPENSATION PAID TO NONRESIDENTS (IITA SECTION 302)
--

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 100
INCOME TAX**

Section 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

- a) Compensation Paid in This State – General Rule
 - 1) In order for items of compensation paid to an individual who is a nonresident of Illinois at the time of payment to be allocated to Illinois, the compensation must constitute "compensation paid in this State". If the test is met, then all items of the compensation, and all items of deduction directly allocable thereto, are allocated to Illinois under IITA Section 302(a) (except items allocated under IITA Section 301(c)(2), as to which see subsection (d)). Compensation paid to a nonresident, which is allocated to Illinois, enters into the computation of the individual's net income under IITA Section 202 and is generally subject to withholding under IITA Section 701 (see Sections 100.7000, 100.7010 and 100.7020). The tests for determining whether compensation is paid in Illinois appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Insurance Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Except as provided in this Section, compensation is paid in Illinois if:
 - A) The individual's service is localized in Illinois because it is performed entirely within Illinois (IITA Section 304(a)(2)(B)(i));
 - B) The individual's service is localized in Illinois although it is performed both within and without Illinois, because the service performed without Illinois is incidental to the individual's service performed within Illinois (see IITA Section 304(a)(2)(B)(ii)); or
 - C) For taxable years ending prior to December 31, 2020, the individual's service is not localized in any state under subsections (a)(1)(A) and (B), but some of the service is performed within Illinois and either:
 - i) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within Illinois; or
 - ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in Illinois. (See IITA Section 304(a)(2)(B)(iii).)

- D) The rules in subsections (a)(1)(A) through (C) are to be applied in a manner so that, if they were in effect in other states, an item of compensation would constitute compensation "paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in that other state under subsection (a)(1)(B), it could not also be compensation paid in Illinois.
- E) For taxable years ending on or after December 31, 2020, the individual's service is not localized in any state under subsection (a)(1)(A) or (B), but *some of the individual's service is performed within this State and the individual's service is performed within this State for more than 30 working days during the taxable year, the amount of compensation paid in this State shall include the portion of the individual's total compensation for services performed on behalf of his or her employer during the taxable year that the number of working days spent within this State during the taxable year bears to the total number of working days spent both within and without this State during the taxable year.* (IITA Section 304(a)(2)(B)(iii)) For purposes of this subsection (a)(1)(E):
- i) "Working day" means *each day during the taxable year in which the individual performs duties on behalf of his or her employer. All days in which the individual performs no duties on behalf of his or her employer (e.g., weekends, vacation days, sick days, and holidays) are not working days.* (IITA Section 304(a)(2)(B)(iii)(a))
 - ii) A working day is "spent within this State" if:
 - *the individual performs service on behalf of the employer and a greater amount of time on that day is spent by the individual performing duties on behalf of the employer within this State, without regard to time spent traveling, than is spent performing duties on behalf of the employer without this State; or*
 - *the only service the individual performs on behalf of the employer on that day is traveling to a destination within this State, and the individual arrives on that day.* (IITA Section 304(a)(2)(B)(iii)(b))
 - iii) Working days "spent within this State" do not include *any day in which the employee is performing services in this State during a disaster period solely in response to a request made to his or her employer by the government of this State, by any political subdivision of this State, or by a person conducting business in this State to perform disaster or emergency-related services in this State.* (IITA Section 304(a)(2)(B)(iii)(c)) For purposes of this subsection (a)(1)(E)(iii):
 - "Declared State disaster or emergency" means *a disaster or emergency event for which a Governor's proclamation of a*

state of emergency has been issued or for which a Presidential declaration of a federal major disaster or emergency has been issued.

- *"Disaster period" means a period that begins 10 days prior to the date of the Governor's proclamation or the President's declaration (whichever is earlier) and extends for a period of 60 calendar days after the end of the declared disaster or emergency period.*
- *"Disaster or emergency-related services" means repairing, renovating, installing, building, or rendering services or conducting other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by the declared State disaster or emergency.*
- *"Infrastructure" means property and equipment owned or used by a public utility, communications network, broadband and internet service provider, cable and video service provider, electric or gas distribution system, or water pipeline that provides service to more than one customer or person, including related support facilities. "Infrastructure" includes, but is not limited to, real and personal property such as buildings, offices, power lines, cable lines, poles, communications lines, pipes, structures, and equipment. (IITA Section 304(a)(2)(B)(iii)(c))*

2) Localization Tests

- A) If compensation is paid in this State because the service is localized in this State under either of the tests set forth in subsection (a)(1)(A) or (B), the factors in subsections (a)(1)(C) and (D) are not considered. In those cases, the place of the base of operations, the place from which the service is directed or controlled, and the number of working days spent in any state are irrelevant.
- B) In determining whether an individual's service performed outside of this State is incidental to the service performed within this State for purposes of the test set forth in subsection (a)(1)(B), the term "incidental" means any service that is necessary to, or supportive of, the primary service performed by the employee or that is temporary or transitory in nature or consists of isolated transactions. The incidental service may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his or her service in this State may be sent by the employer to another state to perform service that is totally different in nature from his or her usual work, or he or she may be sent to do similar work. So long as the service is temporary or consists merely of isolated transactions, it will be considered to be incidental to the service performed within this State, and the employee's entire compensation will be subject to withholding.

- C) In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In those cases, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment that will be prima facie evidence that the service is localized within that territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every case, the ultimate determination to be made is whether the individual's service was intended to be, and was in fact, principally performed within this State and whether any service that was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed outside this State should not be regarded as decisive, in itself, in determining whether that service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if that special assignment were an isolated transaction.
- D) This subsection (a)(2) may be illustrated by the following examples:
- i) **EXAMPLE 1:** A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service that A performs in Illinois and State X is paid in Illinois because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.
 - ii) **EXAMPLE 2:** The facts are the same as in Example 1 except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of A's time spent and sales made are in Illinois. The compensation for service that A performs in Illinois and State X is not localized in Illinois under the provisions of subsection (a)(1)(B) because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois.
 - iii) **EXAMPLE 3:** A works for B construction company in Chicago. Occasionally the company obtains a construction job in State X that may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is paid in Illinois because the service performed in State X, being temporary in nature, is incidental to the service performed in Illinois.
 - iv) **EXAMPLE 4:** A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are

necessary to and supportive of A's primary duties that are localized in State X and not in Illinois. A's compensation is not paid in Illinois under the provisions of subsection (a)(1)(B).

3) Base of Operations

- A) For taxable years ending prior to December 31, 2020, if the localization tests in subsection (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual's base of operations is within this State, his or her entire compensation is paid in Illinois. However, if his or her base of operations is outside this State, none of his or her compensation is paid in this State. (See IITA Section 304(a)(2)(B)(iii).)
- B) The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his or her business office (which may be maintained in the employee's home), or the contract of employment may specify a place at which the employee is to receive directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which the employee has his or her business mail, supplies, and equipment sent or the place where the employee maintains his or her business records. An employee's base of operations may change during a tax year, but only if there is a change in the employee's circumstances that is expected to be permanent. The base of operations does not change when the employee is temporarily assigned to work at a different location.
- C) This subsection (a)(3) may be illustrated by the following examples:
 - i) **EXAMPLE 1:** A is a salesman for the B corporation located in Chicago. A's territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is paid in Illinois because the service is not localized in any of the three states in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.
 - ii) **EXAMPLE 2:** A is a salesman for the B corporation located in Chicago. A lives in State X and A's territory includes State X and part of Cook County, Illinois. A starts his or her sales calls from and returns to his or her home daily. A keeps a catalogue and copies of correspondence from customers at his or her home, and writes his or her sales reports there. About once a week, A reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him or her to a stenographer when he or she is in the Chicago sales office. Correspondence to A and A's paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to A's home. The duties that A performs at home are sufficient to make

his or her home the base of operations. A's compensation is therefore not paid in Illinois because A's base of operations is in State X, and part of A's service is performed in that state.

- iii) EXAMPLE 3: A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his or her home, where he or she receives instructions from B corporation, communications from customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is paid in Illinois because the service is not localized in any state, but part of the service is performed in Illinois and A's base of operations is A's home in Illinois.
- iv) EXAMPLE 4: A works for a company whose home office is in State X. A is a regional director working out of a branch office in Illinois. A works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since A performs some service in Illinois and his base of operations is in Illinois, it is immaterial that A's source of direction and control is in State X. All of A's compensation for service is paid in Illinois.
- v) EXAMPLE 5: A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and A's territory is divided equally between State X and Illinois. A's compensation is not paid in Illinois because A's base of operations is in State X, and part of A's service is performed in that State.
- vi) EXAMPLE 6: B, an Indiana resident, is a certified public accountant based in her employer's Chicago office. B is regularly sent to perform auditing services at clients' offices outside Illinois, often for periods of weeks or months. Some of her assignments are recurring, requiring her to perform services at the same client's office for some period or periods every year. B's base of operations is in Illinois, and does not change with any of these temporary assignments.

4) Place of Direction or Control

- A) For taxable years ending prior to December 31, 2020, if the localization tests in subsection (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual has no base of operations or the individual performs no services in the state in which his or her base of operations is located, the permanent place from which an employee's service is directed or controlled is relevant in determining whether the employee's wages are paid in Illinois. In those cases, if the place from which the individual's service is directed or controlled is within this State, and some of the employee's services are performed within this State, then the employee's entire compensation will be paid in Illinois. (See IITA Section 304(a)(2)(B)(iii).) For example, a salesman's territory may be so indefinite and so widespread that the employee will not retain any fixed business office or address but will receive orders or instructions wherever

he or she may happen to be. In that case, the location of the permanent place from which direction and control is exercised must be determined, and the employee's compensation will be paid in Illinois if the place of direction and control is in Illinois and the employee performs some services in Illinois.

B) This subsection (a)(4) may be illustrated by the following examples:

i) **EXAMPLE 1:** A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls, but A has no place that is used as a base of operations. All of the compensation for service performed by A for B is paid in Illinois because A's service is not localized in any state and A has no base of operations, but part of A's service is performed in Illinois and the place from which the service is directed is in Illinois.

ii) **EXAMPLE 2:** A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. A does not report, start from, or return to the Chicago office, and does not work from his or her residence in State X. State X is the territory of another salesman. A does not have a base of operations, and his or her compensation is paid in Illinois since part of A's service is performed in Illinois and the place from which the service is directed is in Illinois.

iii) **EXAMPLE 3:** A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X and regularly performs service in both Illinois and State X. In this case, neither the localization nor the base-of-operations test would apply, but A's compensation would be paid in Illinois because part of A's service is performed in Illinois and the place of direction or control is in Illinois because the permanent office from which basic direction and control emanates is the Illinois office.

5) When Residence Is Important

A) For taxable years ending prior to December 31, 2020, residence is a factor in determining whether compensation of an employee is paid in Illinois only when the localization tests in subsection (a)(1)(A) or (B) are not determinative of the issue of whether compensation is paid in this State and the individual has no base of operations or the individual performs no

services in the state in which his or her base of operations is located, and the employee performs no service in the state from which his or her service is directed or controlled. In these cases, if the individual is a resident of this State, and some of his or her service is performed within this State, the employee's entire compensation will be paid in this State. (See IITA Section 304(a)(2)(B)(iii).)

EXAMPLE: A is a salesman employed by the B company located in State X. A's services are directed and controlled from the State X office and A has no base of operations. A lives in Illinois but A's territory includes State Y and State Z as well as Illinois. For taxable years ending prior to December 31, 2020, all of A's wages are paid in Illinois because no part of his service is performed in the state (State X) in which the place from which A's services are directed is located, but part of A's service is performed in Illinois and A's residence is in Illinois.

- B) For all taxable years, residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers, merchant marine and air carriers. (See Section 100.2590.)
- b) Compensation Paid in This State – Nonresident Members of Professional Athletic Teams
- 1) Notwithstanding the provisions of subsection (a), compensation of a nonresident individual who is a member of a professional athletic team paid in this State includes *the portion of the individual's total compensation for services performed as a member of a professional athletic team during the taxable year which the number of duty days spent within this State performing services for the team in any manner during the taxable year bears to the total number of duty days spent both within and without this State during the taxable year.* (IITA Section 304(a)(2)(B)(iv)(a))
 - 2) For purposes of this subsection (b):
 - A) "Professional athletic team" includes, but is not limited to, *any professional baseball, basketball, football, soccer, or hockey team.* (IITA Section 304(a)(2)(B)(iv)(c)(1))
 - B) "Member of a professional athletic team" includes those employees who are *active players, players on the disabled list, and any other persons required to travel and who travel with, and perform services on behalf of, a professional athletic team on a regular basis. This includes, but is not limited to, coaches, managers, and trainers.* (IITA Section 304(a)(2)(B)(iv)(c)(2))
 - C) "Duty days" means *all days during the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete. Duty days are counted for the year in which they occur, including instances in which a team's official pre-season training period through the last game in which the team competes or is scheduled to compete occurs during more than one tax year.* (IITA Section 304(a)(2)(B)(iv)(c)(3))

- i) *"Duty days" includes days on which a member of a professional athletic team performs service for a team on a date that does not fall within the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete (e.g., participation in instructional leagues, the "All Star Game", or promotional "caravans"). Performing a service for a professional athletic team includes conducting training and rehabilitation activities, when those activities are conducted at team facilities. (IITA Section 304(a)(2)(B)(iv)(c)(3)(A))*
- ii) *"Duty days" includes game days, practice days, days spent at team meetings, promotional caravans, preseason training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete. (IITA Section 304(a)(2)(B)(iv)(c)(3)(B))*
- iii) *"Duty days" for any person who joins a team during the period from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes, or is scheduled to compete, begins on the day that person joins the team. Conversely, "duty days" for any person who leaves a team during this period ends on the day that person leaves the team. When a person switches teams during a taxable year, a separate duty-day calculation is made for each period the person was with each team. (IITA Section 304(a)(2)(B)(iv)(c)(3)(C)) For purposes of this provision, "team" means the employer, so that if a single employer operates more than one club, a player who is transferred from one of the employer's clubs to another is not leaving or joining a team.*
- iv) *"Duty days" does not include any day for which a member of a professional athletic team is not compensated and is not performing services for the team in any manner, including days when that member has been suspended without pay and prohibited from performing any services for the team. (IITA Section 304(a)(2)(B)(iv)(c)(3)(D))*
- v) *Days for which a member of a professional athletic team is on the disabled list and does not conduct rehabilitation activities at facilities of the team, and is not otherwise performing services for the team in Illinois, are not duty days spent in this State. All days on the disabled list, however, are considered to be included in total duty days spent both within and outside of this State. (IITA Section 304(a)(2)(B)(iv)(c)(3)(E))*
- vi) *Travel days that do not involve either a game, practice, team meeting, or other similar team event are not considered duty days spent in this State. However, travel days are considered in the total duty days spent both within and outside of this State. (IITA Section 304(a)(2)(B)(iv)(b))*

D) Total Compensation

- i) "Total compensation for services performed as a member of a professional athletic team" means *the total compensation received during the taxable year for services performed:*
- *from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during that taxable year (IITA Section 304(a)(2)(B)(iv)(c)(4)(A)); and*
 - *during the taxable year on a date that does not fall within the foregoing period (e.g., participation in instructional leagues, the "All Star Game", or promotional caravans). This compensation includes, but is not limited to, salaries, wages, bonuses, and any other type of compensation paid during the taxable year to a member of a professional athletic team for services performed in that year. (IITA Section 304(a)(2)(B)(iv)(c)(4)(B))*
- ii) For purposes of this subsection (b)(2)(D), *compensation does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services performed for the team. (IITA Section 304(a)(2)(B)(iv)(c))*
- iii) For purposes of this subsection (b)(2)(D), "bonuses" included in "total compensation for services performed as a member of a professional athletic team" subject to allocation under this subsection (b)(2)(D) are: *bonuses earned as a result of play (e.g., performance bonuses) during the season, including bonuses paid for championship, playoff or "bowl" games played by a team, or for selection to all-star or other honorary positions; and bonuses paid for signing a contract, unless the payment of the signing bonus is not conditional upon the signee playing any games for the team or performing any subsequent services for the team or even making the team, payable separately from the salary and any other compensation, and nonrefundable. (IITA Section 304(a)(2)(B)(iv)(c))*

c) Compensation Paid for Past Service

- 1) A federal law, P.L. 104-95 (4 USC 114), which applies to amounts received after December 31, 1995, limits the power of states to impose income taxation on certain nonresident pension income. This limitation also impacts income received by a nonresident in the form of distributions from many deferred compensation plans. The allocation of distributions to nonresidents from deferred compensation plans which are not governed by that law and which are potentially income taxable in this State is governed by this subsection (c)(1). For the purpose of determining whether and to what extent compensation paid for past service is "paid in" Illinois and is allocated to Illinois under IITA Section 302(a), that compensation is

presumed to have been earned ratably over the employee's last 5 years of service with the employer (or any predecessor or successor of the employer or a parent or subsidiary corporation of the employer), in the absence of clear and convincing evidence that the compensation is properly attributable to a different period of employment or that it was not earned ratably over the appropriate period of employment. Compensation earned in each past year will be deemed compensation paid in Illinois if the individual's service in that year met the tests set forth in subsection (a) applicable to that year. Compensation paid for past service includes amounts paid under deferred compensation agreements where the amount of compensation is unrelated to the amount of service being currently rendered. Amounts paid to nonresidents under deferred compensation agreements are allocated to Illinois under IITA Section 302(a) in accordance with this subsection (c)(1) notwithstanding the fact that amounts paid to nonresidents are exempted from withholding under Section 100.7010(g).

- 2) The standards detailed in subsection (c)(1) may be illustrated by the following examples:
- A) **EXAMPLE 1:** A is a union member employed by B corporation as a factory worker. During the years 1965-1968, A was employed in B's factory in Illinois; in 1969, A worked in B's factory in State X. In 1970, as a result of union labor contract negotiations, A received a lump-sum payment of \$500 in lieu of a retroactive wage increase. A is at all times a resident of State X. Unless A establishes, by clear and convincing evidence, facts to support a different result, \$100 is deemed to have been earned in each of the 5 years 1965-1969. Further, \$400 is deemed to have been earned by service localized in Illinois and \$100 by service localized in State X (see subsection (a)). Therefore, \$400 is allocable to Illinois under IITA Section 302(a).
 - B) **EXAMPLE 2:** The facts are the same as in Example 1, except that A is able to establish that the \$500 constituted a wage increase retroactive to July 1, 1969. In this case, no part of the \$500 is allocable to Illinois, since it was earned by service in 1969 localized in State X.
 - C) **EXAMPLE 3:** C is a corporate executive. On January 1, 1965, C entered into an agreement with D corporation under which he was to be employed by D in an executive capacity for a period of 5 years. Under the contract C is entitled to a stated annual salary and to additional compensation of \$10,000 for each year, the additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on C's retirement beginning January 1, 1970. In the event of C's death prior to exhaustion of the account, the balance is to be paid to C's personal representative. C is required to render consultative services to D when called upon after December 31, 1969. During 1970, C is paid \$5,000 while a resident of Florida. The \$5,000 is deemed to have been earned at the rate of \$1,000 in each of the years 1965-1969, since the amount paid is unrelated to C's current consultative services. Whether the \$1,000 earned in each year is allocable to Illinois under IITA Section 302(a) must be determined by applying the tests set forth in subsection (a) to that year.

d) Exceptions to General Allocation Rules

- 1) While "compensation" may include items of income taken into account by a nonresident employee under the provisions of IRC sections 401 through 425, such as, for example, amounts received by a beneficiary of an employees' trust (taxable to the employee under IRC section 402, whether the trust is exempt or non-exempt from federal income tax), or income resulting from a disqualifying disposition of stock acquired pursuant to the exercise of a qualified stock option (taxable to the employee under IRC section 421(b)), under the express provision of IITA Section 301(c)(2)(A), that compensation is not allocated to Illinois. Consequently, a nonresident claiming the compensation that would otherwise constitute compensation paid in Illinois is not allocated to Illinois under IITA Section 301(c)(2)(A) must establish that the compensation was properly taken into account by the individual under the provisions of IRC sections 401 through 425.
- 2) Reciprocal Exemptions
In any case in which the Director has entered into an agreement with the taxing authorities of another state which imposes a tax on or measured by income to provide the compensation paid in that state to residents of Illinois is exempt from that state's tax, compensation paid in Illinois to residents of that state will not be allocated to Illinois.
- 3) Employees Engaged in Interstate Transportation. Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation, even though in the absence of specific federal provisions those employees would be subject to Illinois taxation by virtue of IITA Section 302(a). (See Section 100.2590.) Compensation that Illinois may not tax under those provisions is not "paid in this State" under this Section.
- 4) Military Servicemembers and Spouses of Servicemembers. Pursuant to 50 USC 4001, compensation for military service paid to a nonresident servicemember and compensation paid to a servicemember's spouse, if the spouse is not a resident of Illinois and is in Illinois solely to be with the servicemember serving in compliance with military orders, do not constitute "compensation paid in" Illinois even though it meets the tests set forth in this subsection (d).

(Source: Amended at 44 Ill. Reg. 10907, effective June 10, 2020)