



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4623

Introduced 02/04/04, by Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Allows a deduction from federal adjusted gross income, in arriving at base income for Illinois income tax purposes, of an amount equal to earnings in a special needs trust, to the extent included in adjusted gross income. Defines "special needs trust" as a trust that is not liable to pay or reimburse the State or any public agency for financial aid or services to the individual, as provided in the Trusts and Trustees Act. Effective immediately.

LRB093 16612 SJM 42262 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning taxes.

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

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

6 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

7 Sec. 203. Base income defined.

8 (a) Individuals.

9 (1) In general. In the case of an individual, base
10 income means an amount equal to the taxpayer's adjusted
11 gross income for the taxable year as modified by paragraph
12 (2).

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

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

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

27 (C) An amount equal to the amount received during
28 the taxable year as a recovery or refund of real
29 property taxes paid with respect to the taxpayer's
30 principal residence under the Revenue Act of 1939 and
31 for which a deduction was previously taken under
32 subparagraph (L) of this paragraph (2) prior to July 1,

1 1991, the retrospective application date of Article 4
2 of Public Act 87-17. In the case of multi-unit or
3 multi-use structures and farm dwellings, the taxes on
4 the taxpayer's principal residence shall be that
5 portion of the total taxes for the entire property
6 which is attributable to such principal residence;

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

11 (D-5) An amount, to the extent not included in
12 adjusted gross income, equal to the amount of money
13 withdrawn by the taxpayer in the taxable year from a
14 medical care savings account and the interest earned on
15 the account in the taxable year of a withdrawal
16 pursuant to subsection (b) of Section 20 of the Medical
17 Care Savings Account Act or subsection (b) of Section
18 20 of the Medical Care Savings Account Act of 2000;

19 (D-10) For taxable years ending after December 31,
20 1997, an amount equal to any eligible remediation costs
21 that the individual deducted in computing adjusted
22 gross income and for which the individual claims a
23 credit under subsection (l) of Section 201;

24 (D-15) For taxable years 2001 and thereafter, an
25 amount equal to the bonus depreciation deduction (30%
26 of the adjusted basis of the qualified property) taken
27 on the taxpayer's federal income tax return for the
28 taxable year under subsection (k) of Section 168 of the
29 Internal Revenue Code; ~~and~~

30 (D-16) If the taxpayer reports a capital gain or
31 loss on the taxpayer's federal income tax return for
32 the taxable year based on a sale or transfer of
33 property for which the taxpayer was required in any
34 taxable year to make an addition modification under
35 subparagraph (D-15), then an amount equal to the
36 aggregate amount of the deductions taken in all taxable

1 years under subparagraph (Z) with respect to that
2 property.~~†~~

3 The taxpayer is required to make the addition
4 modification under this subparagraph only once with
5 respect to any one piece of property;~~†~~ and

6 (D-20) ~~(D-15)~~ For taxable years beginning on or
7 after January 1, 2002, in the case of a distribution
8 from a qualified tuition program under Section 529 of
9 the Internal Revenue Code, other than (i) a
10 distribution from a College Savings Pool created under
11 Section 16.5 of the State Treasurer Act or (ii) a
12 distribution from the Illinois Prepaid Tuition Trust
13 Fund, an amount equal to the amount excluded from gross
14 income under Section 529(c)(3)(B);

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

17 (E) For taxable years ending before December 31,
18 2001, any amount included in such total in respect of
19 any compensation (including but not limited to any
20 compensation paid or accrued to a serviceman while a
21 prisoner of war or missing in action) paid to a
22 resident by reason of being on active duty in the Armed
23 Forces of the United States and in respect of any
24 compensation paid or accrued to a resident who as a
25 governmental employee was a prisoner of war or missing
26 in action, and in respect of any compensation paid to a
27 resident in 1971 or thereafter for annual training
28 performed pursuant to Sections 502 and 503, Title 32,
29 United States Code as a member of the Illinois National
30 Guard. For taxable years ending on or after December
31, 2001, any amount included in such total in respect
32 of any compensation (including but not limited to any
33 compensation paid or accrued to a serviceman while a
34 prisoner of war or missing in action) paid to a
35 resident by reason of being a member of any component
36 of the Armed Forces of the United States and in respect

1 of any compensation paid or accrued to a resident who
2 as a governmental employee was a prisoner of war or
3 missing in action, and in respect of any compensation
4 paid to a resident in 2001 or thereafter by reason of
5 being a member of the Illinois National Guard. The
6 provisions of this amendatory Act of the 92nd General
7 Assembly are exempt from the provisions of Section 250;

8 (F) An amount equal to all amounts included in such
9 total pursuant to the provisions of Sections 402(a),
10 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
11 Internal Revenue Code, or included in such total as
12 distributions under the provisions of any retirement
13 or disability plan for employees of any governmental
14 agency or unit, or retirement payments to retired
15 partners, which payments are excluded in computing net
16 earnings from self employment by Section 1402 of the
17 Internal Revenue Code and regulations adopted pursuant
18 thereto;

19 (G) The valuation limitation amount;

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

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

28 (J) An amount equal to those dividends included in
29 such total which were paid by a corporation which
30 conducts business operations in an Enterprise Zone or
31 zones created under the Illinois Enterprise Zone Act,
32 and conducts substantially all of its operations in an
33 Enterprise Zone or zones;

34 (K) An amount equal to those dividends included in
35 such total that were paid by a corporation that
36 conducts business operations in a federally designated

1 Foreign Trade Zone or Sub-Zone and that is designated a
2 High Impact Business located in Illinois; provided
3 that dividends eligible for the deduction provided in
4 subparagraph (J) of paragraph (2) of this subsection
5 shall not be eligible for the deduction provided under
6 this subparagraph (K);

7 (L) For taxable years ending after December 31,
8 1983, an amount equal to all social security benefits
9 and railroad retirement benefits included in such
10 total pursuant to Sections 72(r) and 86 of the Internal
11 Revenue Code;

12 (M) With the exception of any amounts subtracted
13 under subparagraph (N), an amount equal to the sum of
14 all amounts disallowed as deductions by (i) Sections
15 171(a) (2), and 265(2) of the Internal Revenue Code of
16 1954, as now or hereafter amended, and all amounts of
17 expenses allocable to interest and disallowed as
18 deductions by Section 265(1) of the Internal Revenue
19 Code of 1954, as now or hereafter amended; and (ii) for
20 taxable years ending on or after August 13, 1999,
21 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
22 the Internal Revenue Code; the provisions of this
23 subparagraph are exempt from the provisions of Section
24 250;

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

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

1 (P) An amount equal to the amount of the deduction
2 used to compute the federal income tax credit for
3 restoration of substantial amounts held under claim of
4 right for the taxable year pursuant to Section 1341 of
5 the Internal Revenue Code of 1986;

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

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

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

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

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

34 (V) Beginning with tax years ending on or after
35 December 31, 1995 and ending with tax years ending on
36 or before December 31, 2004, an amount equal to the

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

25 (W) For taxable years beginning on or after January
26 1, 1998, all amounts included in the taxpayer's federal
27 gross income in the taxable year from amounts converted
28 from a regular IRA to a Roth IRA. This paragraph is
29 exempt from the provisions of Section 250;

30 (X) For taxable year 1999 and thereafter, an amount
31 equal to the amount of any (i) distributions, to the
32 extent includible in gross income for federal income
33 tax purposes, made to the taxpayer because of his or
34 her status as a victim of persecution for racial or
35 religious reasons by Nazi Germany or any other Axis
36 regime or as an heir of the victim and (ii) items of

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

27 (Y) For taxable years beginning on or after January
28 1, 2002, moneys contributed in the taxable year to a
29 College Savings Pool account under Section 16.5 of the
30 State Treasurer Act, except that amounts excluded from
31 gross income under Section 529(c)(3)(C)(i) of the
32 Internal Revenue Code shall not be considered moneys
33 contributed under this subparagraph (Y). This
34 subparagraph (Y) is exempt from the provisions of
35 Section 250;

36 (Z) For taxable years 2001 and thereafter, for the

1 taxable year in which the bonus depreciation deduction
2 (30% of the adjusted basis of the qualified property)
3 is taken on the taxpayer's federal income tax return
4 under subsection (k) of Section 168 of the Internal
5 Revenue Code and for each applicable taxable year
6 thereafter, an amount equal to "x", where:

7 (1) "y" equals the amount of the depreciation
8 deduction taken for the taxable year on the
9 taxpayer's federal income tax return on property
10 for which the bonus depreciation deduction (30% of
11 the adjusted basis of the qualified property) was
12 taken in any year under subsection (k) of Section
13 168 of the Internal Revenue Code, but not including
14 the bonus depreciation deduction; and

15 (2) "x" equals "y" multiplied by 30 and then
16 divided by 70 (or "y" multiplied by 0.429).

17 The aggregate amount deducted under this
18 subparagraph in all taxable years for any one piece of
19 property may not exceed the amount of the bonus
20 depreciation deduction (30% of the adjusted basis of
21 the qualified property) taken on that property on the
22 taxpayer's federal income tax return under subsection
23 (k) of Section 168 of the Internal Revenue Code; ~~and~~

24 (AA) If the taxpayer reports a capital gain or loss
25 on the taxpayer's federal income tax return for the
26 taxable year based on a sale or transfer of property
27 for which the taxpayer was required in any taxable year
28 to make an addition modification under subparagraph
29 (D-15), then an amount equal to that addition
30 modification.

31 The taxpayer is allowed to take the deduction under
32 this subparagraph only once with respect to any one
33 piece of property; ~~and~~

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

1 (CC) For taxable years ending on or after December
2 31, 2004, an amount equal to the earnings on a special
3 needs trust, to the extent included in adjusted gross
4 income. As used in this subparagraph, "special needs
5 trust" means a trust that is not liable to pay or
6 reimburse the State or any public agency for financial
7 aid or services to the individual, as provided in
8 Section 15.1 of the Trusts and Trustees Act.

9 (b) Corporations.

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

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

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

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

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

34 (D) The amount of any net operating loss deduction
35 taken in arriving at taxable income, other than a net

1 operating loss carried forward from a taxable year
2 ending prior to December 31, 1986;

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

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

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

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

33 (E-5) For taxable years ending after December 31,
34 1997, an amount equal to any eligible remediation costs
35 that the corporation deducted in computing adjusted
36 gross income and for which the corporation claims a

1 credit under subsection (l) of Section 201;

2 (E-10) For taxable years 2001 and thereafter, an
3 amount equal to the bonus depreciation deduction (30%
4 of the adjusted basis of the qualified property) taken
5 on the taxpayer's federal income tax return for the
6 taxable year under subsection (k) of Section 168 of the
7 Internal Revenue Code; and

8 (E-11) If the taxpayer reports a capital gain or
9 loss on the taxpayer's federal income tax return for
10 the taxable year based on a sale or transfer of
11 property for which the taxpayer was required in any
12 taxable year to make an addition modification under
13 subparagraph (E-10), then an amount equal to the
14 aggregate amount of the deductions taken in all taxable
15 years under subparagraph (T) with respect to that
16 property.

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

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

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

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

27 (H) In the case of a regulated investment company,
28 an amount equal to the amount of exempt interest
29 dividends as defined in subsection (b) (5) of Section
30 852 of the Internal Revenue Code, paid to shareholders
31 for the taxable year;

32 (I) With the exception of any amounts subtracted
33 under subparagraph (J), an amount equal to the sum of
34 all amounts disallowed as deductions by (i) Sections
35 171(a) (2), and 265(a) (2) and amounts disallowed as
36 interest expense by Section 291(a) (3) of the Internal

1 Revenue Code, as now or hereafter amended, and all
2 amounts of expenses allocable to interest and
3 disallowed as deductions by Section 265(a)(1) of the
4 Internal Revenue Code, as now or hereafter amended; and
5 (ii) for taxable years ending on or after August 13,
6 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
7 832(b)(5)(B)(i) of the Internal Revenue Code; the
8 provisions of this subparagraph are exempt from the
9 provisions of Section 250;

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

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

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

34 (M) For any taxpayer that is a financial
35 organization within the meaning of Section 304(c) of
36 this Act, an amount included in such total as interest

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

18 (M-1) For any taxpayer that is a financial
19 organization within the meaning of Section 304(c) of
20 this Act, an amount included in such total as interest
21 income from a loan or loans made by such taxpayer to a
22 borrower, to the extent that such a loan is secured by
23 property which is eligible for the High Impact Business
24 Investment Credit. To determine the portion of a loan
25 or loans that is secured by property eligible for a
26 Section 201(h) investment credit to the borrower, the
27 entire principal amount of the loan or loans between
28 the taxpayer and the borrower should be divided into
29 the basis of the Section 201(h) investment credit
30 property which secures the loan or loans, using for
31 this purpose the original basis of such property on the
32 date that it was placed in service in a federally
33 designated Foreign Trade Zone or Sub-Zone located in
34 Illinois. No taxpayer that is eligible for the
35 deduction provided in subparagraph (M) of paragraph
36 (2) of this subsection shall be eligible for the

1 deduction provided under this subparagraph (M-1). The
2 subtraction modification available to taxpayers in any
3 year under this subsection shall be that portion of the
4 total interest paid by the borrower with respect to
5 such loan attributable to the eligible property as
6 calculated under the previous sentence;

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

16 (O) An amount equal to: (i) 85% for taxable years
17 ending on or before December 31, 1992, or, a percentage
18 equal to the percentage allowable under Section
19 243(a)(1) of the Internal Revenue Code of 1986 for
20 taxable years ending after December 31, 1992, of the
21 amount by which dividends included in taxable income
22 and received from a corporation that is not created or
23 organized under the laws of the United States or any
24 state or political subdivision thereof, including, for
25 taxable years ending on or after December 31, 1988,
26 dividends received or deemed received or paid or deemed
27 paid under Sections 951 through 964 of the Internal
28 Revenue Code, exceed the amount of the modification
29 provided under subparagraph (G) of paragraph (2) of
30 this subsection (b) which is related to such dividends;
31 plus (ii) 100% of the amount by which dividends,
32 included in taxable income and received, including,
33 for taxable years ending on or after December 31, 1988,
34 dividends received or deemed received or paid or deemed
35 paid under Sections 951 through 964 of the Internal
36 Revenue Code, from any such corporation specified in

1 clause (i) that would but for the provisions of Section
2 1504 (b) (3) of the Internal Revenue Code be treated as
3 a member of the affiliated group which includes the
4 dividend recipient, exceed the amount of the
5 modification provided under subparagraph (G) of
6 paragraph (2) of this subsection (b) which is related
7 to such dividends;

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

11 (Q) An amount equal to the amount of the deduction
12 used to compute the federal income tax credit for
13 restoration of substantial amounts held under claim of
14 right for the taxable year pursuant to Section 1341 of
15 the Internal Revenue Code of 1986;

16 (R) In the case of an attorney-in-fact with respect
17 to whom an interinsurer or a reciprocal insurer has
18 made the election under Section 835 of the Internal
19 Revenue Code, 26 U.S.C. 835, an amount equal to the
20 excess, if any, of the amounts paid or incurred by that
21 interinsurer or reciprocal insurer in the taxable year
22 to the attorney-in-fact over the deduction allowed to
23 that interinsurer or reciprocal insurer with respect
24 to the attorney-in-fact under Section 835(b) of the
25 Internal Revenue Code for the taxable year;

26 (S) For taxable years ending on or after December
27 31, 1997, in the case of a Subchapter S corporation, an
28 amount equal to all amounts of income allocable to a
29 shareholder subject to the Personal Property Tax
30 Replacement Income Tax imposed by subsections (c) and
31 (d) of Section 201 of this Act, including amounts
32 allocable to organizations exempt from federal income
33 tax by reason of Section 501(a) of the Internal Revenue
34 Code. This subparagraph (S) is exempt from the
35 provisions of Section 250;

36 (T) For taxable years 2001 and thereafter, for the

1 taxable year in which the bonus depreciation deduction
2 (30% of the adjusted basis of the qualified property)
3 is taken on the taxpayer's federal income tax return
4 under subsection (k) of Section 168 of the Internal
5 Revenue Code and for each applicable taxable year
6 thereafter, an amount equal to "x", where:

7 (1) "y" equals the amount of the depreciation
8 deduction taken for the taxable year on the
9 taxpayer's federal income tax return on property
10 for which the bonus depreciation deduction (30% of
11 the adjusted basis of the qualified property) was
12 taken in any year under subsection (k) of Section
13 168 of the Internal Revenue Code, but not including
14 the bonus depreciation deduction; and

15 (2) "x" equals "y" multiplied by 30 and then
16 divided by 70 (or "y" multiplied by 0.429).

17 The aggregate amount deducted under this
18 subparagraph in all taxable years for any one piece of
19 property may not exceed the amount of the bonus
20 depreciation deduction (30% of the adjusted basis of
21 the qualified property) taken on that property on the
22 taxpayer's federal income tax return under subsection
23 (k) of Section 168 of the Internal Revenue Code; ~~and~~

24 (U) If the taxpayer reports a capital gain or loss
25 on the taxpayer's federal income tax return for the
26 taxable year based on a sale or transfer of property
27 for which the taxpayer was required in any taxable year
28 to make an addition modification under subparagraph
29 (E-10), then an amount equal to that addition
30 modification.

31 The taxpayer is allowed to take the deduction under
32 this subparagraph only once with respect to any one
33 piece of property; and -

34 (V) For taxable years ending on or after December
35 31, 2004, an amount equal to the earnings on a special
36 needs trust, to the extent included in adjusted gross

1 income. As used in this subparagraph, "special needs
2 trust" means a trust that is not liable to pay or
3 reimburse the State or any public agency for financial
4 aid or services to the individual, as provided in
5 Section 15.1 of the Trusts and Trustees Act.

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

10 (c) Trusts and estates.

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

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

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

22 (B) In the case of (i) an estate, \$600; (ii) a
23 trust which, under its governing instrument, is
24 required to distribute all of its income currently,
25 \$300; and (iii) any other trust, \$100, but in each such
26 case, only to the extent such amount was deducted in
27 the computation of taxable income;

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

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

35 (E) For taxable years in which a net operating loss

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

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

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

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

30 (F) For taxable years ending on or after January 1,
31 1989, an amount equal to the tax deducted pursuant to
32 Section 164 of the Internal Revenue Code if the trust
33 or estate is claiming the same tax for purposes of the
34 Illinois foreign tax credit under Section 601 of this
35 Act;

36 (G) An amount equal to the amount of the capital

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

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

9 (G-10) For taxable years 2001 and thereafter, an
10 amount equal to the bonus depreciation deduction (30%
11 of the adjusted basis of the qualified property) taken
12 on the taxpayer's federal income tax return for the
13 taxable year under subsection (k) of Section 168 of the
14 Internal Revenue Code; and

15 (G-11) If the taxpayer reports a capital gain or
16 loss on the taxpayer's federal income tax return for
17 the taxable year based on a sale or transfer of
18 property for which the taxpayer was required in any
19 taxable year to make an addition modification under
20 subparagraph (G-10), then an amount equal to the
21 aggregate amount of the deductions taken in all taxable
22 years under subparagraph (R) with respect to that
23 property.†

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

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

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

1 earnings from self employment by Section 1402 of the
2 Internal Revenue Code and regulations adopted pursuant
3 thereto;

4 (I) The valuation limitation amount;

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

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

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

32 (M) An amount equal to those dividends included in
33 such total which were paid by a corporation which
34 conducts business operations in an Enterprise Zone or
35 zones created under the Illinois Enterprise Zone Act
36 and conducts substantially all of its operations in an

1 Enterprise Zone or Zones;

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

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

14 (P) An amount equal to the amount of the deduction
15 used to compute the federal income tax credit for
16 restoration of substantial amounts held under claim of
17 right for the taxable year pursuant to Section 1341 of
18 the Internal Revenue Code of 1986;

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

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

16 (R) For taxable years 2001 and thereafter, for the
17 taxable year in which the bonus depreciation deduction
18 (30% of the adjusted basis of the qualified property)
19 is taken on the taxpayer's federal income tax return
20 under subsection (k) of Section 168 of the Internal
21 Revenue Code and for each applicable taxable year
22 thereafter, an amount equal to "x", where:

23 (1) "y" equals the amount of the depreciation
24 deduction taken for the taxable year on the
25 taxpayer's federal income tax return on property
26 for which the bonus depreciation deduction (30% of
27 the adjusted basis of the qualified property) was
28 taken in any year under subsection (k) of Section
29 168 of the Internal Revenue Code, but not including
30 the bonus depreciation deduction; and

31 (2) "x" equals "y" multiplied by 30 and then
32 divided by 70 (or "y" multiplied by 0.429).

33 The aggregate amount deducted under this
34 subparagraph in all taxable years for any one piece of
35 property may not exceed the amount of the bonus
36 depreciation deduction (30% of the adjusted basis of

1 the qualified property) taken on that property on the
2 taxpayer's federal income tax return under subsection
3 (k) of Section 168 of the Internal Revenue Code; ~~and~~

4 (S) If the taxpayer reports a capital gain or loss
5 on the taxpayer's federal income tax return for the
6 taxable year based on a sale or transfer of property
7 for which the taxpayer was required in any taxable year
8 to make an addition modification under subparagraph
9 (G-10), then an amount equal to that addition
10 modification.

11 The taxpayer is allowed to take the deduction under
12 this subparagraph only once with respect to any one
13 piece of property; and -

14 (T) For taxable years ending on or after December
15 31, 2004, an amount equal to the earnings on a special
16 needs trust, to the extent included in adjusted gross
17 income. As used in this subparagraph, "special needs
18 trust" means a trust that is not liable to pay or
19 reimburse the State or any public agency for financial
20 aid or services to the individual, as provided in
21 Section 15.1 of the Trusts and Trustees Act.

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

29 (d) Partnerships.

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

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

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

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

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

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

15 (D-5) For taxable years 2001 and thereafter, an
16 amount equal to the bonus depreciation deduction (30%
17 of the adjusted basis of the qualified property) taken
18 on the taxpayer's federal income tax return for the
19 taxable year under subsection (k) of Section 168 of the
20 Internal Revenue Code; and

21 (D-6) If the taxpayer reports a capital gain or
22 loss on the taxpayer's federal income tax return for
23 the taxable year based on a sale or transfer of
24 property for which the taxpayer was required in any
25 taxable year to make an addition modification under
26 subparagraph (D-5), then an amount equal to the
27 aggregate amount of the deductions taken in all taxable
28 years under subparagraph (D) with respect to that
29 property.

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

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

35 (E) The valuation limitation amount;

36 (F) An amount equal to the amount of any tax

1 imposed by this Act which was refunded to the taxpayer
2 and included in such total for the taxable year;

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

13 (H) Any income of the partnership which
14 constitutes personal service income as defined in
15 Section 1348 (b) (1) of the Internal Revenue Code (as
16 in effect December 31, 1981) or a reasonable allowance
17 for compensation paid or accrued for services rendered
18 by partners to the partnership, whichever is greater;

19 (I) An amount equal to all amounts of income
20 distributable to an entity subject to the Personal
21 Property Tax Replacement Income Tax imposed by
22 subsections (c) and (d) of Section 201 of this Act
23 including amounts distributable to organizations
24 exempt from federal income tax by reason of Section
25 501(a) of the Internal Revenue Code;

26 (J) With the exception of any amounts subtracted
27 under subparagraph (G), an amount equal to the sum of
28 all amounts disallowed as deductions by (i) Sections
29 171(a) (2), and 265(2) of the Internal Revenue Code of
30 1954, as now or hereafter amended, and all amounts of
31 expenses allocable to interest and disallowed as
32 deductions by Section 265(1) of the Internal Revenue
33 Code, as now or hereafter amended; and (ii) for taxable
34 years ending on or after August 13, 1999, Sections
35 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
36 Internal Revenue Code; the provisions of this

1 subparagraph are exempt from the provisions of Section
2 250;

3 (K) An amount equal to those dividends included in
4 such total which were paid by a corporation which
5 conducts business operations in an Enterprise Zone or
6 zones created under the Illinois Enterprise Zone Act,
7 enacted by the 82nd General Assembly, and conducts
8 substantially all of its operations in an Enterprise
9 Zone or Zones;

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

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

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

27 (O) For taxable years 2001 and thereafter, for the
28 taxable year in which the bonus depreciation deduction
29 (30% of the adjusted basis of the qualified property)
30 is taken on the taxpayer's federal income tax return
31 under subsection (k) of Section 168 of the Internal
32 Revenue Code and for each applicable taxable year
33 thereafter, an amount equal to "x", where:

34 (1) "y" equals the amount of the depreciation
35 deduction taken for the taxable year on the
36 taxpayer's federal income tax return on property

1 for which the bonus depreciation deduction (30% of
2 the adjusted basis of the qualified property) was
3 taken in any year under subsection (k) of Section
4 168 of the Internal Revenue Code, but not including
5 the bonus depreciation deduction; and

6 (2) "x" equals "y" multiplied by 30 and then
7 divided by 70 (or "y" multiplied by 0.429).

8 The aggregate amount deducted under this
9 subparagraph in all taxable years for any one piece of
10 property may not exceed the amount of the bonus
11 depreciation deduction (30% of the adjusted basis of
12 the qualified property) taken on that property on the
13 taxpayer's federal income tax return under subsection
14 (k) of Section 168 of the Internal Revenue Code; ~~and~~

15 (P) If the taxpayer reports a capital gain or loss
16 on the taxpayer's federal income tax return for the
17 taxable year based on a sale or transfer of property
18 for which the taxpayer was required in any taxable year
19 to make an addition modification under subparagraph
20 (D-5), then an amount equal to that addition
21 modification.

22 The taxpayer is allowed to take the deduction under
23 this subparagraph only once with respect to any one
24 piece of property; and -

25 (Q) For taxable years ending on or after December
26 31, 2004, an amount equal to the earnings on a special
27 needs trust, to the extent included in adjusted gross
28 income. As used in this subparagraph, "special needs
29 trust" means a trust that is not liable to pay or
30 reimburse the State or any public agency for financial
31 aid or services to the individual, as provided in
32 Section 15.1 of the Trusts and Trustees Act.

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

34 (1) In general. Subject to the provisions of paragraph

35 (2) and subsection (b) (3), for purposes of this Section

1 and Section 803(e), a taxpayer's gross income, adjusted
2 gross income, or taxable income for the taxable year shall
3 mean the amount of gross income, adjusted gross income or
4 taxable income properly reportable for federal income tax
5 purposes for the taxable year under the provisions of the
6 Internal Revenue Code. Taxable income may be less than
7 zero. However, for taxable years ending on or after
8 December 31, 1986, net operating loss carryforwards from
9 taxable years ending prior to December 31, 1986, may not
10 exceed the sum of federal taxable income for the taxable
11 year before net operating loss deduction, plus the excess
12 of addition modifications over subtraction modifications
13 for the taxable year. For taxable years ending prior to
14 December 31, 1986, taxable income may never be an amount in
15 excess of the net operating loss for the taxable year as
16 defined in subsections (c) and (d) of Section 172 of the
17 Internal Revenue Code, provided that when taxable income of
18 a corporation (other than a Subchapter S corporation),
19 trust, or estate is less than zero and addition
20 modifications, other than those provided by subparagraph
21 (E) of paragraph (2) of subsection (b) for corporations or
22 subparagraph (E) of paragraph (2) of subsection (c) for
23 trusts and estates, exceed subtraction modifications, an
24 addition modification must be made under those
25 subparagraphs for any other taxable year to which the
26 taxable income less than zero (net operating loss) is
27 applied under Section 172 of the Internal Revenue Code or
28 under subparagraph (E) of paragraph (2) of this subsection
29 (e) applied in conjunction with Section 172 of the Internal
30 Revenue Code.

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

34 (A) Certain life insurance companies. In the case
35 of a life insurance company subject to the tax imposed
36 by Section 801 of the Internal Revenue Code, life

1 insurance company taxable income, plus the amount of
2 distribution from pre-1984 policyholder surplus
3 accounts as calculated under Section 815a of the
4 Internal Revenue Code;

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

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

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

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

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

34 (G) Subchapter S corporations. In the case of: (i)
35 a Subchapter S corporation for which there is in effect
36 an election for the taxable year under Section 1362 of

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

14 (H) Partnerships. In the case of a partnership,
15 taxable income determined in accordance with Section
16 703 of the Internal Revenue Code, except that taxable
17 income shall take into account those items which are
18 required by Section 703(a)(1) to be separately stated
19 but which would be taken into account by an individual
20 in calculating his taxable income.

21 (f) Valuation limitation amount.

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

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

30 (B) The lesser of (i) the sum of the pre-August 1,
31 1969 appreciation amounts (to the extent consisting of
32 capital gain) for all property in respect of which such
33 gain was reported for federal income tax purposes for
34 the taxable year, or (ii) the net capital gain for the
35 taxable year, reduced in either case by any amount of

1 such gain included in the amount determined under
2 subsection (a) (2) (F) or (c) (2) (H).

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

4 (A) If the fair market value of property referred
5 to in paragraph (1) was readily ascertainable on August
6 1, 1969, the pre-August 1, 1969 appreciation amount for
7 such property is the lesser of (i) the excess of such
8 fair market value over the taxpayer's basis (for
9 determining gain) for such property on that date
10 (determined under the Internal Revenue Code as in
11 effect on that date), or (ii) the total gain realized
12 and reportable for federal income tax purposes in
13 respect of the sale, exchange or other disposition of
14 such property.

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

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

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

32 (h) Legislative intention. Except as expressly provided by
33 this Section there shall be no modifications or limitations on
34 the amounts of income, gain, loss or deduction taken into

1 account in determining gross income, adjusted gross income or
2 taxable income for federal income tax purposes for the taxable
3 year, or in the amount of such items entering into the
4 computation of base income and net income under this Act for
5 such taxable year, whether in respect of property values as of
6 August 1, 1969 or otherwise.

7 (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99;
8 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff.
9 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16,
10 eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01;
11 92-603, eff. 6-28-02; 92-626, eff. 7-11-02; 92-651, eff.
12 7-11-02; 92-846, eff. 8-23-02; revised 10-15-03.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.