



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0024

Introduced 12/3/2004, by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/203

from Ch. 120, par. 2-203

Creates the Health Savings Account Act and amends the Illinois Income Tax Act. Provides that, beginning in taxable year 2005, a resident of Illinois or an employer may deposit contributions, subject to certain limitations, into a health savings account. Provides that the principal contributed to and the interest earned on a health savings account and money reimbursed to an eligible individual or an employee for qualified medical expenses is exempt from the Illinois income tax. Sets forth restriction on the use of funds held in a health savings account. Provides that an eligible individual may withdraw money from his or her health savings account for any purpose, but provides that certain withdrawals are not tax exempt. Repeals the Health Savings Account Act on June 30, 2015. Effective July 1, 2005.

LRB094 02453 BDD 32454 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 1. Short title. This Act may be cited as the Health
5 Savings Account Act.

6 Section 5. Definitions. As used in this Act:

7 (a) "Eligible individual" means an individual, including
8 employees of an employer who contributes to health savings
9 accounts on the employees' behalf, who:

10 (1) is covered by a "high deductible health plan"
11 individually or with dependents; and

12 (2) is not covered under any health plan that is not a
13 high deductible health plan, except for:

14 (i) coverage for accidents;

15 (ii) workers' compensation insurance;

16 (iii) insurance for a specified disease or
17 illness;

18 (iv) insurance paying a fixed amount per day per
19 hospitalization; and

20 (v) tort liabilities; and

21 (3) establishes a health savings account or on whose
22 behalf the health savings account is established.

23 (b) "Deductible" means the total deductible of a high
24 deductible health plan for an eligible individual and all the
25 dependents of that eligible individual for a calendar year.

26 (c) "Dependent" means an eligible individual's spouse or
27 child, as defined in Section 152 of the Internal Revenue Code
28 of 1986.

29 (d) "Qualified medical expense" means an expense paid by
30 the eligible individual for medical care described in Section
31 213(d) of the Internal Revenue Code of 1986.

32 (e) "High deductible" means:

1 (1) In the case of self-only coverage, an annual
2 deductible that is not less than \$1,000 and that, when
3 added to the other annual out-of-pocket expenses required
4 to be paid under the plan for covered benefits, does not
5 exceed \$5,000; and

6 (2) In the case of family coverage, an annual
7 deductible of not less than \$2,000 and that, when added to
8 the other annual out-of-pocket expenses required to be paid
9 under the plan for covered benefits, does not exceed
10 \$10,000.

11 A plan shall not fail to be treated as a high deductible
12 plan by reason of a failure to have a deductible for preventive
13 care or, in the case of network plans, for having out-of-pocket
14 expenses that exceed these limits on an annual deductible for
15 services that are provided outside the network.

16 (f) "Health savings account" or "account" means a trust or
17 custodial account established under a State program
18 exclusively to pay the qualified medical expenses of an
19 eligible individual, or his or her dependents, that meets the
20 all of the following requirements:

21 (1) Except in the case of a rollover contribution, no
22 contribution may be accepted:

23 (A) unless it is in cash; or

24 (B) to the extent that the contribution, when added
25 to the previous contributions to the Account for the
26 calendar year, exceeds the lesser of (i) 100% of the
27 eligible individual's deductible or (ii) \$2,600 for an
28 individual or \$5,150 per family. Beginning in taxable
29 year 2006, the amounts set forth in item (ii) of this
30 subparagraph (B) are subject to annual adjustments
31 equal to the percentage of increase in the previous
32 calendar year in the Consumer Price Index for all Urban
33 Consumers for all items published by the federal Bureau
34 of Labor Statistics.

35 (2) The trustee or custodian is a bank, an insurance
36 company, or another person approved by the Secretary of

1 Human Services.

2 (3) No part of the trust assets will be invested in
3 life insurance contracts.

4 (4) The assets of the account will not be commingled
5 with other property except as allowed for under Individual
6 Retirement Accounts.

7 (5) Eligible individual's interest in the account is
8 nonforfeitable.

9 (g) "Health Savings Account program" or "program" means a
10 program that includes all of the following:

11 (1) The purchase by an eligible individual or by an
12 employer of a high deductible health plan.

13 (2) The contribution into a health savings account by
14 an eligible individual or on behalf of an employee or by
15 his or her employer. The total annual contribution may not
16 exceed the amount of the deductible or the amounts listed
17 in item (1)(B) of subsection (f) of this Section.

18 (h) "High Deductible Health Plan" means a health coverage
19 policy, certificate, or contract that provides for payments for
20 covered benefits that exceed the high deductible.

21 Section 10. Application; authorized contributions; tax
22 exemption.

23 (a) This Act applies regardless of whether the taxpayer
24 receives preferred federal tax treatment for a health savings
25 account under Section 223 of the Internal Revenue Code of 1986.

26 (b) Beginning in taxable year 2005, a resident of Illinois
27 or an employer may deposit contributions into a health savings
28 account. The amount of deposit for 2005 may not exceed the
29 lesser of (i) the amount of the deductible or (ii) \$2,600 for
30 an individual policy and \$5,150 for a family policy.

31 (c) Except as provided in Section 20, the principal
32 contributed to and the interest earned on a health savings
33 account and money reimbursed to an eligible individual or an
34 employee for qualified medical expenses is exempt from taxation
35 under the Illinois Income Tax Act.

1 Section 15. Use of funds.

2 (a) The trustee or custodian must use the funds held in a
3 health savings account solely (i) for the purpose of paying the
4 qualified medical expenses of the eligible individual or his or
5 her dependents, (ii) to purchase a health coverage policy
6 certificate, or contract, if the eligible individual is
7 receiving unemployment compensation, is exercising
8 continuation privileges under federal law, or is purchasing a
9 long term care insurance contract, or (iii) to pay for health
10 insurance other than a Medicare supplemental policy for those
11 who are Medicare eligible.

12 (b) Funds held in a health savings account may not be used
13 to cover expenses of the eligible individual or his or her
14 dependents that are otherwise covered, including but not
15 limited to, medical expense covered under an automobile
16 insurance policy, worker's compensation insurance policy or
17 self-insured plan, or another employer-funded health coverage
18 policy, certificate, or contract.

19 Section 20. Withdrawals.

20 (a) An eligible individual may withdraw money from his or
21 her health savings account for any purpose.

22 (b) Except as otherwise provided in this Section, if the
23 eligible individual withdraws money for any purpose other than
24 a purpose described in subsection (a) of Section 15, all of the
25 following apply:

26 (1) the amount of the withdrawal is income for the
27 purposes of the Illinois Income Tax Act in the tax year of
28 the withdrawal; and

29 (2) interest earned on the amount withdrawn from the
30 account during the tax year in which a withdrawal under
31 this subsection is made is income for the purposes of the
32 Illinois Income Tax Act.

33 (c) The amount of disbursement of any assets of a health
34 savings account under a filing for bankruptcy protection under

1 Title 11 of the United States Code by an eligible individual or
2 person for whose benefit the account was established is not
3 considered a withdrawal for purposes of this Section, and the
4 amount of the disbursement is not subject to taxation under the
5 Illinois Income Tax Act, and subsection (b) does not apply.

6 (d) The transfer of an eligible individual's interest in a
7 health savings account to that eligible individual's spouse, or
8 former spouse under a divorce or separation instrument, is not
9 considered to be a taxable transfer made by the eligible
10 individual, and, after the transfer, the interest shall be
11 treated as a health savings account with the spouse as the
12 eligible individual. The amount of the transfer is not subject
13 to taxation under the Illinois Income Tax Act, and subsection
14 (b) does not apply.

15 (e) Upon the death of the eligible individual, the trustee
16 or custodian must distribute the principle and accumulated
17 interest of the health savings account to the estate of the
18 deceased. The amount of the distribution is not subject to
19 taxation under the Illinois Income Tax Act, and subsection (b)
20 does not apply.

21 (f) If an employee becomes employed with a different
22 employer that participates in a health savings account program,
23 the employee may transfer his or her health savings account to
24 that new employer's trustee or custodian or to an individually
25 purchased account program. The amount of the transfer is not
26 subject to taxation under the Illinois Income Tax Act, and
27 subsection (b) does not apply.

28 Section 25. Repeal. This Act is repealed on June 30, 2015.

29 Section 990. The Illinois Income Tax Act is amended by
30 changing Section 203 as follows:

31 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

32 Sec. 203. Base income defined.

33 (a) Individuals.

1 (1) In general. In the case of an individual, base
2 income means an amount equal to the taxpayer's adjusted
3 gross income for the taxable year as modified by paragraph
4 (2).

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

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

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

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

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

35 (D-5) An amount, to the extent not included in
36 adjusted gross income, equal to the amount of money

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

7 (D-10) For taxable years ending after December 31,
8 1997, an amount equal to any eligible remediation costs
9 that the individual deducted in computing adjusted
10 gross income and for which the individual claims a
11 credit under subsection (l) of Section 201;

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

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

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

30 (D-17) For taxable years ending on or after
31 December 31, 2004, an amount equal to the amount
32 otherwise allowed as a deduction in computing base
33 income for interest paid, accrued, or incurred,
34 directly or indirectly, to a foreign person who would
35 be a member of the same unitary business group but for
36 the fact that foreign person's business activity

1 outside the United States is 80% or more of the foreign
2 person's total business activity. The addition
3 modification required by this subparagraph shall be
4 reduced to the extent that dividends were included in
5 base income of the unitary group for the same taxable
6 year and received by the taxpayer or by a member of the
7 taxpayer's unitary business group (including amounts
8 included in gross income under Sections 951 through 964
9 of the Internal Revenue Code and amounts included in
10 gross income under Section 78 of the Internal Revenue
11 Code) with respect to the stock of the same person to
12 whom the interest was paid, accrued, or incurred.

13 This paragraph shall not apply to the following:

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

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

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

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

36 (iii) the taxpayer can establish, based on

1 clear and convincing evidence, that the interest
2 paid, accrued, or incurred relates to a contract or
3 agreement entered into at arm's-length rates and
4 terms and the principal purpose for the payment is
5 not federal or Illinois tax avoidance; or

6 (iv) an item of interest paid, accrued, or
7 incurred, directly or indirectly, to a foreign
8 person if the taxpayer establishes by clear and
9 convincing evidence that the adjustments are
10 unreasonable; or if the taxpayer and the Director
11 agree in writing to the application or use of an
12 alternative method of apportionment under Section
13 304(f).

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

23 (D-18) For taxable years ending on or after
24 December 31, 2004, an amount equal to the amount of
25 intangible expenses and costs otherwise allowed as a
26 deduction in computing base income, and that were paid,
27 accrued, or incurred, directly or indirectly, to a
28 foreign person who would be a member of the same
29 unitary business group but for the fact that the
30 foreign person's business activity outside the United
31 States is 80% or more of that person's total business
32 activity. The addition modification required by this
33 subparagraph shall be reduced to the extent that
34 dividends were included in base income of the unitary
35 group for the same taxable year and received by the
36 taxpayer or by a member of the taxpayer's unitary

1 business group (including amounts included in gross
2 income under Sections 951 through 964 of the Internal
3 Revenue Code and amounts included in gross income under
4 Section 78 of the Internal Revenue Code) with respect
5 to the stock of the same person to whom the intangible
6 expenses and costs were directly or indirectly paid,
7 incurred, or accrued. The preceding sentence does not
8 apply to the extent that the same dividends caused a
9 reduction to the addition modification required under
10 Section 203(a)(2)(D-17) of this Act. As used in this
11 subparagraph, the term "intangible expenses and costs"
12 includes (1) expenses, losses, and costs for, or
13 related to, the direct or indirect acquisition, use,
14 maintenance or management, ownership, sale, exchange,
15 or any other disposition of intangible property; (2)
16 losses incurred, directly or indirectly, from
17 factoring transactions or discounting transactions;
18 (3) royalty, patent, technical, and copyright fees;
19 (4) licensing fees; and (5) other similar expenses and
20 costs. For purposes of this subparagraph, "intangible
21 property" includes patents, patent applications, trade
22 names, trademarks, service marks, copyrights, mask
23 works, trade secrets, and similar types of intangible
24 assets.

25 This paragraph shall not apply to the following:

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

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

1 following:

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

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

13 (iii) any item of intangible expense or cost
14 paid, accrued, or incurred, directly or
15 indirectly, from a transaction with a foreign
16 person if the taxpayer establishes by clear and
17 convincing evidence, that the adjustments are
18 unreasonable; or if the taxpayer and the Director
19 agree in writing to the application or use of an
20 alternative method of apportionment under Section
21 304(f);

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

31 (D-20) For taxable years beginning on or after
32 January 1, 2002, in the case of a distribution from a
33 qualified tuition program under Section 529 of the
34 Internal Revenue Code, other than (i) a distribution
35 from a College Savings Pool created under Section 16.5
36 of the State Treasurer Act or (ii) a distribution from

1 the Illinois Prepaid Tuition Trust Fund, an amount
2 equal to the amount excluded from gross income under
3 Section 529(c) (3) (B);

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

6 (E) For taxable years ending before December 31,
7 2001, any amount included in such total in respect of
8 any compensation (including but not limited to any
9 compensation paid or accrued to a serviceman while a
10 prisoner of war or missing in action) paid to a
11 resident by reason of being on active duty in the Armed
12 Forces of the United States and in respect of any
13 compensation paid or accrued to a resident who as a
14 governmental employee was a prisoner of war or missing
15 in action, and in respect of any compensation paid to a
16 resident in 1971 or thereafter for annual training
17 performed pursuant to Sections 502 and 503, Title 32,
18 United States Code as a member of the Illinois National
19 Guard. For taxable years ending on or after December
20 31, 2001, any amount included in such total in respect
21 of any compensation (including but not limited to any
22 compensation paid or accrued to a serviceman while a
23 prisoner of war or missing in action) paid to a
24 resident by reason of being a member of any component
25 of the Armed Forces of the United States and in respect
26 of any compensation paid or accrued to a resident who
27 as a governmental employee was a prisoner of war or
28 missing in action, and in respect of any compensation
29 paid to a resident in 2001 or thereafter by reason of
30 being a member of the Illinois National Guard. The
31 provisions of this amendatory Act of the 92nd General
32 Assembly are exempt from the provisions of Section 250;

33 (F) An amount equal to all amounts included in such
34 total pursuant to the provisions of Sections 402(a),
35 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
36 Internal Revenue Code, or included in such total as

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

8 (G) The valuation limitation amount;

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

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

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

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

32 (L) For taxable years ending after December 31,
33 1983, an amount equal to all social security benefits
34 and railroad retirement benefits included in such
35 total pursuant to Sections 72(r) and 86 of the Internal
36 Revenue Code;

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

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

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

26 (P) An amount equal to the amount of the deduction
27 used to compute the federal income tax credit for
28 restoration of substantial amounts held under claim of
29 right for the taxable year pursuant to Section 1341 of
30 the Internal Revenue Code of 1986;

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

36 (R) An amount equal to the amount of any federal or

1 State bonus paid to veterans of the Persian Gulf War;

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

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

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

23 (V) Beginning with tax years ending on or after
24 December 31, 1995 and ending with tax years ending on
25 or before December 31, 2004, an amount equal to the
26 amount paid by a taxpayer who is a self-employed
27 taxpayer, a partner of a partnership, or a shareholder
28 in a Subchapter S corporation for health insurance or
29 long-term care insurance for that taxpayer or that
30 taxpayer's spouse or dependents, to the extent that the
31 amount paid for that health insurance or long-term care
32 insurance may be deducted under Section 213 of the
33 Internal Revenue Code of 1986, has not been deducted on
34 the federal income tax return of the taxpayer, and does
35 not exceed the taxable income attributable to that
36 taxpayer's income, self-employment income, or

1 Subchapter S corporation income; except that no
2 deduction shall be allowed under this item (V) if the
3 taxpayer is eligible to participate in any health
4 insurance or long-term care insurance plan of an
5 employer of the taxpayer or the taxpayer's spouse. The
6 amount of the health insurance and long-term care
7 insurance subtracted under this item (V) shall be
8 determined by multiplying total health insurance and
9 long-term care insurance premiums paid by the taxpayer
10 times a number that represents the fractional
11 percentage of eligible medical expenses under Section
12 213 of the Internal Revenue Code of 1986 not actually
13 deducted on the taxpayer's federal income tax return;

14 (W) For taxable years beginning on or after January
15 1, 1998, all amounts included in the taxpayer's federal
16 gross income in the taxable year from amounts converted
17 from a regular IRA to a Roth IRA. This paragraph is
18 exempt from the provisions of Section 250;

19 (X) 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 (Y) For taxable years beginning on or after January
17 1, 2002 and ending on or before December 31, 2004,
18 moneys contributed in the taxable year to a College
19 Savings Pool account under Section 16.5 of the State
20 Treasurer Act, except that amounts excluded from gross
21 income under Section 529(c)(3)(C)(i) of the Internal
22 Revenue Code shall not be considered moneys
23 contributed under this subparagraph (Y). For taxable
24 years beginning on or after January 1, 2005, a maximum
25 of \$10,000 contributed in the taxable year to (i) a
26 College Savings Pool account under Section 16.5 of the
27 State Treasurer Act or (ii) the Illinois Prepaid
28 Tuition Trust Fund, except that amounts excluded from
29 gross income under Section 529(c)(3)(C)(i) of the
30 Internal Revenue Code shall not be considered moneys
31 contributed under this subparagraph (Y). This
32 subparagraph (Y) is exempt from the provisions of
33 Section 250;

34 (Z) For taxable years 2001 and thereafter, for the
35 taxable year in which the bonus depreciation deduction
36 (30% of the adjusted basis of the qualified property)

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

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

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

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

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

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

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

35 (CC) The amount of (i) any interest income (net of
36 the deductions allocable thereto) taken into account

1 for the taxable year with respect to a transaction with
2 a taxpayer that is required to make an addition
3 modification with respect to such transaction under
4 Section 203(a)(2)(D-17), 203(b)(2)(E-13),
5 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
6 the amount of that addition modification, and (ii) any
7 income from intangible property (net of the deductions
8 allocable thereto) taken into account for the taxable
9 year with respect to a transaction with a taxpayer that
10 is required to make an addition modification with
11 respect to such transaction under Section
12 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or
13 203(d)(2)(D-8), but not to exceed the amount of that
14 addition modification;

15 (DD) An amount equal to the interest income taken
16 into account for the taxable year (net of the
17 deductions allocable thereto) with respect to
18 transactions with a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact that the foreign person's business activity
21 outside the United States is 80% or more of that
22 person's total business activity, but not to exceed the
23 addition modification required to be made for the same
24 taxable year under Section 203(a)(2)(D-17) for
25 interest paid, accrued, or incurred, directly or
26 indirectly, to the same foreign person; ~~and~~

27 (EE) An amount equal to the income from intangible
28 property taken into account for the taxable year (net
29 of the deductions allocable thereto) with respect to
30 transactions with a foreign person who would be a
31 member of the taxpayer's unitary business group but for
32 the fact that the foreign person's business activity
33 outside the United States is 80% or more of that
34 person's total business activity, but not to exceed the
35 addition modification required to be made for the same
36 taxable year under Section 203(a)(2)(D-18) for

1 intangible expenses and costs paid, accrued, or
2 incurred, directly or indirectly, to the same foreign
3 person; ~~and~~—

4 (FF) For taxable years ending after December 31,
5 2004 and on or before December 30, 2015, all amounts
6 included in the taxpayer's federal gross income in the
7 taxable year consisting of (i) the principal
8 contributed to and the interest earned on a health
9 savings account and (ii) money reimbursed to an
10 eligible individual or an employee from a health
11 savings account for qualified medical expenses under
12 the Health Savings Account Act.

13 (b) Corporations.

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

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

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

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

28 (C) In the case of a regulated investment company,
29 an amount equal to the excess of (i) the net long-term
30 capital gain for the taxable year, over (ii) the amount
31 of the capital gain dividends designated as such in
32 accordance with Section 852(b)(3)(C) of the Internal
33 Revenue Code and any amount designated under Section
34 852(b)(3)(D) of the Internal Revenue Code,
35 attributable to the taxable year (this amendatory Act

1 of 1995 (Public Act 89-89) is declarative of existing
2 law and is not a new enactment);

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

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

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

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

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

1 (E-5) For taxable years ending after December 31,
2 1997, an amount equal to any eligible remediation costs
3 that the corporation deducted in computing adjusted
4 gross income and for which the corporation claims a
5 credit under subsection (l) of Section 201;

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

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

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

24 (E-12) For taxable years ending on or after
25 December 31, 2004, an amount equal to the amount
26 otherwise allowed as a deduction in computing base
27 income for interest paid, accrued, or incurred,
28 directly or indirectly, to a foreign person who would
29 be a member of the same unitary business group but for
30 the fact the foreign person's business activity
31 outside the United States is 80% or more of the foreign
32 person's total business activity. The addition
33 modification required by this subparagraph shall be
34 reduced to the extent that dividends were included in
35 base income of the unitary group for the same taxable
36 year and received by the taxpayer or by a member of the

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

8 This paragraph shall not apply to the following:

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

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

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

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

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

1 (iv) an item of interest paid, accrued, or
2 incurred, directly or indirectly, to a foreign
3 person if the taxpayer establishes by clear and
4 convincing evidence that the adjustments are
5 unreasonable; or if the taxpayer and the Director
6 agree in writing to the application or use of an
7 alternative method of apportionment under Section
8 304(f).

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

18 (E-13) For taxable years ending on or after
19 December 31, 2004, an amount equal to the amount of
20 intangible expenses and costs otherwise allowed as a
21 deduction in computing base income, and that were paid,
22 accrued, or incurred, directly or indirectly, to a
23 foreign person who would be a member of the same
24 unitary business group but for the fact that the
25 foreign person's business activity outside the United
26 States is 80% or more of that person's total business
27 activity. The addition modification required by this
28 subparagraph shall be reduced to the extent that
29 dividends were included in base income of the unitary
30 group for the same taxable year and received by the
31 taxpayer or by a member of the taxpayer's unitary
32 business group (including amounts included in gross
33 income pursuant to Sections 951 through 964 of the
34 Internal Revenue Code and amounts included in gross
35 income under Section 78 of the Internal Revenue Code)
36 with respect to the stock of the same person to whom

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

20 This paragraph shall not apply to the following:

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

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

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

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

8 (iii) any item of intangible expense or cost
9 paid, accrued, or incurred, directly or
10 indirectly, from a transaction with a foreign
11 person if the taxpayer establishes by clear and
12 convincing evidence, that the adjustments are
13 unreasonable; or if the taxpayer and the Director
14 agree in writing to the application or use of an
15 alternative method of apportionment under Section
16 304(f);

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

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

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

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

33 (H) In the case of a regulated investment company,
34 an amount equal to the amount of exempt interest
35 dividends as defined in subsection (b) (5) of Section
36 852 of the Internal Revenue Code, paid to shareholders

1 for the taxable year;

2 (I) With the exception of any amounts subtracted
3 under subparagraph (J), an amount equal to the sum of
4 all amounts disallowed as deductions by (i) Sections
5 171(a) (2), and 265(a)(2) and amounts disallowed as
6 interest expense by Section 291(a)(3) of the Internal
7 Revenue Code, as now or hereafter amended, and all
8 amounts of expenses allocable to interest and
9 disallowed as deductions by Section 265(a)(1) of the
10 Internal Revenue Code, as now or hereafter amended; and
11 (ii) for taxable years ending on or after August 13,
12 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
13 832(b)(5)(B)(i) of the Internal Revenue Code; the
14 provisions of this subparagraph are exempt from the
15 provisions of Section 250;

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

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

31 (L) An amount equal to those dividends included in
32 such total that were paid by a corporation that
33 conducts business operations in a federally designated
34 Foreign Trade Zone or Sub-Zone and that is designated a
35 High Impact Business located in Illinois; provided
36 that dividends eligible for the deduction provided in

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

4 (M) For any taxpayer that is a financial
5 organization within the meaning of Section 304(c) of
6 this Act, an amount included in such total as interest
7 income from a loan or loans made by such taxpayer to a
8 borrower, to the extent that such a loan is secured by
9 property which is eligible for the Enterprise Zone
10 Investment Credit. To determine the portion of a loan
11 or loans that is secured by property eligible for a
12 Section 201(f) investment credit to the borrower, the
13 entire principal amount of the loan or loans between
14 the taxpayer and the borrower should be divided into
15 the basis of the Section 201(f) investment credit
16 property which secures the loan or loans, using for
17 this purpose the original basis of such property on the
18 date that it was placed in service in the Enterprise
19 Zone. The subtraction modification available to
20 taxpayer in any year under this subsection shall be
21 that portion of the total interest paid by the borrower
22 with respect to such loan attributable to the eligible
23 property as calculated under the previous sentence;

24 (M-1) For any taxpayer that is a financial
25 organization within the meaning of Section 304(c) of
26 this Act, an amount included in such total as interest
27 income from a loan or loans made by such taxpayer to a
28 borrower, to the extent that such a loan is secured by
29 property which is eligible for the High Impact Business
30 Investment Credit. To determine the portion of a loan
31 or loans that is secured by property eligible for a
32 Section 201(h) investment credit to the borrower, the
33 entire principal amount of the loan or loans between
34 the taxpayer and the borrower should be divided into
35 the basis of the Section 201(h) investment credit
36 property which secures the loan or loans, using for

1 this purpose the original basis of such property on the
2 date that it was placed in service in a federally
3 designated Foreign Trade Zone or Sub-Zone located in
4 Illinois. No taxpayer that is eligible for the
5 deduction provided in subparagraph (M) of paragraph
6 (2) of this subsection shall be eligible for the
7 deduction provided under this subparagraph (M-1). The
8 subtraction modification available to taxpayers in any
9 year under this subsection shall be that portion of the
10 total interest paid by the borrower with respect to
11 such loan attributable to the eligible property as
12 calculated under the previous sentence;

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

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

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

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

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

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

31 (S) For taxable years ending on or after December
32 31, 1997, in the case of a Subchapter S corporation, an
33 amount equal to all amounts of income allocable to a
34 shareholder subject to the Personal Property Tax
35 Replacement Income Tax imposed by subsections (c) and
36 (d) of Section 201 of this Act, including amounts

1 allocable to organizations exempt from federal income
2 tax by reason of Section 501(a) of the Internal Revenue
3 Code. This subparagraph (S) is exempt from the
4 provisions of Section 250;

5 (T) For taxable years 2001 and thereafter, for the
6 taxable year in which the bonus depreciation deduction
7 (30% of the adjusted basis of the qualified property)
8 is taken on the taxpayer's federal income tax return
9 under subsection (k) of Section 168 of the Internal
10 Revenue Code and for each applicable taxable year
11 thereafter, an amount equal to "x", where:

12 (1) "y" equals the amount of the depreciation
13 deduction taken for the taxable year on the
14 taxpayer's federal income tax return on property
15 for which the bonus depreciation deduction (30% of
16 the adjusted basis of the qualified property) was
17 taken in any year under subsection (k) of Section
18 168 of the Internal Revenue Code, but not including
19 the bonus depreciation deduction; and

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

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

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

36 The taxpayer is allowed to take the deduction under

1 this subparagraph only once with respect to any one
2 piece of property;

3 (V) The amount of: (i) any interest income (net of
4 the deductions allocable thereto) taken into account
5 for the taxable year with respect to a transaction with
6 a taxpayer that is required to make an addition
7 modification with respect to such transaction under
8 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
9 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
10 the amount of such addition modification and (ii) any
11 income from intangible property (net of the deductions
12 allocable thereto) taken into account for the taxable
13 year with respect to a transaction with a taxpayer that
14 is required to make an addition modification with
15 respect to such transaction under Section
16 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
17 203(d)(2)(D-8), but not to exceed the amount of such
18 addition modification;

19 (W) An amount equal to the interest income taken
20 into account for the taxable year (net of the
21 deductions allocable thereto) with respect to
22 transactions with a foreign person who would be a
23 member of the taxpayer's unitary business group but for
24 the fact that the foreign person's business activity
25 outside the United States is 80% or more of that
26 person's total business activity, but not to exceed the
27 addition modification required to be made for the same
28 taxable year under Section 203(b)(2)(E-12) for
29 interest paid, accrued, or incurred, directly or
30 indirectly, to the same foreign person; and

31 (X) An amount equal to the income from intangible
32 property taken into account for the taxable year (net
33 of the deductions allocable thereto) with respect to
34 transactions with a foreign person who would be a
35 member of the taxpayer's unitary business group but for
36 the fact that the foreign person's business activity

1 outside the United States is 80% or more of that
2 person's total business activity, but not to exceed the
3 addition modification required to be made for the same
4 taxable year under Section 203(b)(2)(E-13) for
5 intangible expenses and costs paid, accrued, or
6 incurred, directly or indirectly, to the same foreign
7 person.

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

12 (c) Trusts and estates.

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

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

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

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

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

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

1 ending prior to December 31, 1986;

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

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

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

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

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

1 Act;

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

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

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

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

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

29 (G-12) For taxable years ending on or after
30 December 31, 2004, an amount equal to the amount
31 otherwise allowed as a deduction in computing base
32 income for interest paid, accrued, or incurred,
33 directly or indirectly, to a foreign person who would
34 be a member of the same unitary business group but for
35 the fact that the foreign person's business activity
36 outside the United States is 80% or more of the foreign

1 person's total business activity. The addition
2 modification required by this subparagraph shall be
3 reduced to the extent that dividends were included in
4 base income of the unitary group for the same taxable
5 year and received by the taxpayer or by a member of the
6 taxpayer's unitary business group (including amounts
7 included in gross income pursuant to Sections 951
8 through 964 of the Internal Revenue Code and amounts
9 included in gross income under Section 78 of the
10 Internal Revenue Code) with respect to the stock of the
11 same person to whom the interest was paid, accrued, or
12 incurred.

13 This paragraph shall not apply to the following:

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

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

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

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

36 (iii) the taxpayer can establish, based on

1 clear and convincing evidence, that the interest
2 paid, accrued, or incurred relates to a contract or
3 agreement entered into at arm's-length rates and
4 terms and the principal purpose for the payment is
5 not federal or Illinois tax avoidance; or

6 (iv) an item of interest paid, accrued, or
7 incurred, directly or indirectly, to a foreign
8 person if the taxpayer establishes by clear and
9 convincing evidence that the adjustments are
10 unreasonable; or if the taxpayer and the Director
11 agree in writing to the application or use of an
12 alternative method of apportionment under Section
13 304(f).

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

23 (G-13) For taxable years ending on or after
24 December 31, 2004, an amount equal to the amount of
25 intangible expenses and costs otherwise allowed as a
26 deduction in computing base income, and that were paid,
27 accrued, or incurred, directly or indirectly, to a
28 foreign person who would be a member of the same
29 unitary business group but for the fact that the
30 foreign person's business activity outside the United
31 States is 80% or more of that person's total business
32 activity. The addition modification required by this
33 subparagraph shall be reduced to the extent that
34 dividends were included in base income of the unitary
35 group for the same taxable year and received by the
36 taxpayer or by a member of the taxpayer's unitary

1 business group (including amounts included in gross
2 income pursuant to Sections 951 through 964 of the
3 Internal Revenue Code and amounts included in gross
4 income under Section 78 of the Internal Revenue Code)
5 with respect to the stock of the same person to whom
6 the intangible expenses and costs were directly or
7 indirectly paid, incurred, or accrued. The preceding
8 sentence shall not apply to the extent that the same
9 dividends caused a reduction to the addition
10 modification required under Section 203(c)(2)(G-12) of
11 this Act. As used in this subparagraph, the term
12 "intangible expenses and costs" includes: (1)
13 expenses, losses, and costs for or related to the
14 direct or indirect acquisition, use, maintenance or
15 management, ownership, sale, exchange, or any other
16 disposition of intangible property; (2) losses
17 incurred, directly or indirectly, from factoring
18 transactions or discounting transactions; (3) royalty,
19 patent, technical, and copyright fees; (4) licensing
20 fees; and (5) other similar expenses and costs. For
21 purposes of this subparagraph, "intangible property"
22 includes patents, patent applications, trade names,
23 trademarks, service marks, copyrights, mask works,
24 trade secrets, and similar types of intangible assets.

25 This paragraph shall not apply to the following:

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

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

1 following:

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

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

13 (iii) any item of intangible expense or cost
14 paid, accrued, or incurred, directly or
15 indirectly, from a transaction with a foreign
16 person if the taxpayer establishes by clear and
17 convincing evidence, that the adjustments are
18 unreasonable; or if the taxpayer and the Director
19 agree in writing to the application or use of an
20 alternative method of apportionment under Section
21 304(f);

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

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

33 (H) An amount equal to all amounts included in such
34 total pursuant to the provisions of Sections 402(a),
35 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
36 Internal Revenue Code or included in such total as

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

8 (I) The valuation limitation amount;

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

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

23 (L) With the exception of any amounts subtracted
24 under subparagraph (K), an amount equal to the sum of
25 all amounts disallowed as deductions by (i) Sections
26 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
27 as now or hereafter amended, and all amounts of
28 expenses allocable to interest and disallowed as
29 deductions by Section 265(1) of the Internal Revenue
30 Code of 1954, as now or hereafter amended; and (ii) for
31 taxable years ending on or after August 13, 1999,
32 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
33 the Internal Revenue Code; the provisions of this
34 subparagraph are exempt from the provisions of Section
35 250;

36 (M) An amount equal to those dividends included in

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

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

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

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

23 (Q) For taxable year 1999 and thereafter, an amount
24 equal to the amount of any (i) distributions, to the
25 extent includible in gross income for federal income
26 tax purposes, made to the taxpayer because of his or
27 her status as a victim of persecution for racial or
28 religious reasons by Nazi Germany or any other Axis
29 regime or as an heir of the victim and (ii) items of
30 income, to the extent includible in gross income for
31 federal income tax purposes, attributable to, derived
32 from or in any way related to assets stolen from,
33 hidden from, or otherwise lost to a victim of
34 persecution for racial or religious reasons by Nazi
35 Germany or any other Axis regime immediately prior to,
36 during, and immediately after World War II, including,

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

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

27 (1) "y" equals the amount of the depreciation
28 deduction taken for the taxable year on the
29 taxpayer's federal income tax return on property
30 for which the bonus depreciation deduction (30% of
31 the adjusted basis of the qualified property) was
32 taken in any year under subsection (k) of Section
33 168 of the Internal Revenue Code, but not including
34 the bonus depreciation deduction; and

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

1 The aggregate amount deducted under this
2 subparagraph in all taxable years for any one piece of
3 property may not exceed the amount of the bonus
4 depreciation deduction (30% of the adjusted basis of
5 the qualified property) taken on that property on the
6 taxpayer's federal income tax return under subsection
7 (k) of Section 168 of the Internal Revenue Code;

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

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

18 (T) The amount of (i) any interest income (net of
19 the deductions allocable thereto) taken into account
20 for the taxable year with respect to a transaction with
21 a taxpayer that is required to make an addition
22 modification with respect to such transaction under
23 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
24 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
25 the amount of such addition modification and (ii) any
26 income from intangible property (net of the deductions
27 allocable thereto) taken into account for the taxable
28 year with respect to a transaction with a taxpayer that
29 is required to make an addition modification with
30 respect to such transaction under Section
31 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
32 203(d)(2)(D-8), but not to exceed the amount of such
33 addition modification;

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

1 transactions with a foreign person who would be a
2 member of the taxpayer's unitary business group but for
3 the fact the foreign person's business activity
4 outside the United States is 80% or more of that
5 person's total business activity, but not to exceed the
6 addition modification required to be made for the same
7 taxable year under Section 203(c)(2)(G-12) for
8 interest paid, accrued, or incurred, directly or
9 indirectly, to the same foreign person; and

10 (V) An amount equal to the income from intangible
11 property taken into account for the taxable year (net
12 of the deductions allocable thereto) with respect to
13 transactions with a foreign person who would be a
14 member of the taxpayer's unitary business group but for
15 the fact that the foreign person's business activity
16 outside the United States is 80% or more of that
17 person's total business activity, but not to exceed the
18 addition modification required to be made for the same
19 taxable year under Section 203(c)(2)(G-13) for
20 intangible expenses and costs paid, accrued, or
21 incurred, directly or indirectly, to the same foreign
22 person.

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

30 (d) Partnerships.

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

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

1 of the following amounts:

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

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

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

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

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

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

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

34 (D-7) For taxable years ending on or after December
35 31, 2004, an amount equal to the amount otherwise
36 allowed as a deduction in computing base income for

1 interest paid, accrued, or incurred, directly or
2 indirectly, to a foreign person who would be a member
3 of the same unitary business group but for the fact the
4 foreign person's business activity outside the United
5 States is 80% or more of the foreign person's total
6 business activity. The addition modification required
7 by this subparagraph shall be reduced to the extent
8 that dividends were included in base income of the
9 unitary group for the same taxable year and received by
10 the taxpayer or by a member of the taxpayer's unitary
11 business group (including amounts included in gross
12 income pursuant to Sections 951 through 964 of the
13 Internal Revenue Code and amounts included in gross
14 income under Section 78 of the Internal Revenue Code)
15 with respect to the stock of the same person to whom
16 the interest was paid, accrued, or incurred.

17 This paragraph shall not apply to the following:

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

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

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

33 (b) the transaction giving rise to the
34 interest expense between the taxpayer and the
35 foreign person did not have as a principal
36 purpose the avoidance of Illinois income tax,

1 and is paid pursuant to a contract or agreement
2 that reflects an arm's-length interest rate
3 and terms; or

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

10 (iv) an item of interest paid, accrued, or
11 incurred, directly or indirectly, to a foreign
12 person if the taxpayer establishes by clear and
13 convincing evidence that the adjustments are
14 unreasonable; or if the taxpayer and the Director
15 agree in writing to the application or use of an
16 alternative method of apportionment under Section
17 304(f).

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

27 (D-8) For taxable years ending on or after December
28 31, 2004, an amount equal to the amount of intangible
29 expenses and costs otherwise allowed as a deduction in
30 computing base income, and that were paid, accrued, or
31 incurred, directly or indirectly, to a foreign person
32 who would be a member of the same unitary business
33 group but for the fact that the foreign person's
34 business activity outside the United States is 80% or
35 more of that person's total business activity. The
36 addition modification required by this subparagraph

1 shall be reduced to the extent that dividends were
2 included in base income of the unitary group for the
3 same taxable year and received by the taxpayer or by a
4 member of the taxpayer's unitary business group
5 (including amounts included in gross income pursuant
6 to Sections 951 through 964 of the Internal Revenue
7 Code and amounts included in gross income under Section
8 78 of the Internal Revenue Code) with respect to the
9 stock of the same person to whom the intangible
10 expenses and costs were directly or indirectly paid,
11 incurred or accrued. The preceding sentence shall not
12 apply to the extent that the same dividends caused a
13 reduction to the addition modification required under
14 Section 203(d)(2)(D-7) of this Act. As used in this
15 subparagraph, the term "intangible expenses and costs"
16 includes (1) expenses, losses, and costs for, or
17 related to, the direct or indirect acquisition, use,
18 maintenance or management, ownership, sale, exchange,
19 or any other disposition of intangible property; (2)
20 losses incurred, directly or indirectly, from
21 factoring transactions or discounting transactions;
22 (3) royalty, patent, technical, and copyright fees;
23 (4) licensing fees; and (5) other similar expenses and
24 costs. For purposes of this subparagraph, "intangible
25 property" includes patents, patent applications, trade
26 names, trademarks, service marks, copyrights, mask
27 works, trade secrets, and similar types of intangible
28 assets;

29 This paragraph shall not apply to the following:

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

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

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

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

17 (iii) any item of intangible expense or cost
18 paid, accrued, or incurred, directly or
19 indirectly, from a transaction with a foreign
20 person if the taxpayer establishes by clear and
21 convincing evidence, that the adjustments are
22 unreasonable; or if the taxpayer and the Director
23 agree in writing to the application or use of an
24 alternative method of apportionment under Section
25 304(f);

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

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

1 (E) The valuation limitation amount;

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

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

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

21 (I) An amount equal to all amounts of income
22 distributable to an entity subject to the Personal
23 Property Tax Replacement Income Tax imposed by
24 subsections (c) and (d) of Section 201 of this Act
25 including amounts distributable to organizations
26 exempt from federal income tax by reason of Section
27 501(a) of the Internal Revenue Code;

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

1 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the
2 Internal Revenue Code; the provisions of this
3 subparagraph are exempt from the provisions of Section
4 250;

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

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

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

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

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

36 (1) "y" equals the amount of the depreciation

1 deduction taken for the taxable year on the
2 taxpayer's federal income tax return on property
3 for which the bonus depreciation deduction (30% of
4 the adjusted basis of the qualified property) was
5 taken in any year under subsection (k) of Section
6 168 of the Internal Revenue Code, but not including
7 the bonus depreciation deduction; and

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

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

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

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

27 (Q) The amount of (i) any interest income (net of
28 the deductions allocable thereto) taken into account
29 for the taxable year with respect to a transaction with
30 a taxpayer that is required to make an addition
31 modification with respect to such transaction under
32 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
33 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
34 the amount of such addition modification and (ii) any
35 income from intangible property (net of the deductions
36 allocable thereto) taken into account for the taxable

1 year with respect to a transaction with a taxpayer that
2 is required to make an addition modification with
3 respect to such transaction under Section
4 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
5 203(d)(2)(D-8), but not to exceed the amount of such
6 addition modification;

7 (R) An amount equal to the interest income taken
8 into account for the taxable year (net of the
9 deductions allocable thereto) with respect to
10 transactions with a foreign person who would be a
11 member of the taxpayer's unitary business group but for
12 the fact that the foreign person's business activity
13 outside the United States is 80% or more of that
14 person's total business activity, but not to exceed the
15 addition modification required to be made for the same
16 taxable year under Section 203(d)(2)(D-7) for interest
17 paid, accrued, or incurred, directly or indirectly, to
18 the same foreign person; and

19 (S) An amount equal to the income from intangible
20 property taken into account for the taxable year (net
21 of the deductions allocable thereto) with respect to
22 transactions with a foreign person who would be a
23 member of the taxpayer's unitary business group but for
24 the fact that the foreign person's business activity
25 outside the United States is 80% or more of that
26 person's total business activity, but not to exceed the
27 addition modification required to be made for the same
28 taxable year under Section 203(d)(2)(D-8) for
29 intangible expenses and costs paid, accrued, or
30 incurred, directly or indirectly, to the same foreign
31 person.

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

33 (1) In general. Subject to the provisions of paragraph
34 (2) and subsection (b) (3), for purposes of this Section
35 and Section 803(e), a taxpayer's gross income, adjusted

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

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

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

1 distribution from pre-1984 policyholder surplus
2 accounts as calculated under Section 815a of the
3 Internal Revenue Code;

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

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

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

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

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

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

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

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

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

1 (f) Valuation limitation amount.

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

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

10 (B) The lesser of (i) the sum of the pre-August 1,
11 1969 appreciation amounts (to the extent consisting of
12 capital gain) for all property in respect of which such
13 gain was reported for federal income tax purposes for
14 the taxable year, or (ii) the net capital gain for the
15 taxable year, reduced in either case by any amount of
16 such gain included in the amount determined under
17 subsection (a) (2) (F) or (c) (2) (H).

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

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

30 (B) If the fair market value of property referred
31 to in paragraph (1) was not readily ascertainable on
32 August 1, 1969, the pre-August 1, 1969 appreciation
33 amount for such property is that amount which bears the
34 same ratio to the total gain reported in respect of the
35 property for federal income tax purposes for the
36 taxable year, as the number of full calendar months in

1 that part of the taxpayer's holding period for the
2 property ending July 31, 1969 bears to the number of
3 full calendar months in the taxpayer's entire holding
4 period for the property.

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

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

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

20 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
21 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
22 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
23 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

24 Section 997. Severability. The provisions of this Act are
25 severable under Section 1.31 of the Statute on Statutes.

26 Section 999. Effective date. This Act takes effect July 1,
27 2005.