



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0262

Introduced 1/18/2005, by Rep. Shane Cultra

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. For taxable years ending on or after December 31, 2005, allows a deduction of up to \$10,000 if the taxpayer, while living, donates one or more of his or her human organs to another human being for human organ transplantation. Provides that the deduction may be claimed only once and for only unreimbursed travel and lodging expenses and lost wages incurred by the claimant and related to the claimant's organ donation. Effective immediately.

LRB094 03722 BDD 33727 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning taxes.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (D-17) For taxable years ending on or after
7 December 31, 2004, an amount equal to the amount
8 otherwise allowed as a deduction in computing base
9 income for interest paid, accrued, or incurred,
10 directly or indirectly, to a foreign person who would
11 be a member of the same unitary business group but for
12 the fact that foreign person's business activity
13 outside the United States is 80% or more of the foreign
14 person's total business activity. The addition
15 modification required by this subparagraph shall be
16 reduced to the extent that dividends were included in
17 base income of the unitary group for the same taxable
18 year and received by the taxpayer or by a member of the
19 taxpayer's unitary business group (including amounts
20 included in gross income under Sections 951 through 964
21 of the Internal Revenue Code and amounts included in
22 gross income under Section 78 of the Internal Revenue
23 Code) with respect to the stock of the same person to
24 whom the interest was paid, accrued, or incurred.

25 This paragraph shall not apply to the following:

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

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

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

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

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

18 (iv) an item of interest paid, accrued, or
19 incurred, directly or indirectly, to 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 (D-18) For taxable years ending on or after
36 December 31, 2004, an amount equal to the amount of

1 intangible expenses and costs otherwise allowed as a
2 deduction in computing base income, and that were paid,
3 accrued, or incurred, directly or indirectly, to a
4 foreign person who would be a member of the same
5 unitary business group but for the fact that the
6 foreign person's business activity outside the United
7 States is 80% or more of that person's total business
8 activity. The addition modification required by this
9 subparagraph shall be reduced to the extent that
10 dividends were included in base income of the unitary
11 group for the same taxable year and received by the
12 taxpayer or by a member of the taxpayer's unitary
13 business group (including amounts included in gross
14 income under Sections 951 through 964 of the Internal
15 Revenue Code and amounts included in gross income under
16 Section 78 of the Internal Revenue Code) with respect
17 to the stock of the same person to whom the intangible
18 expenses and costs were directly or indirectly paid,
19 incurred, or accrued. The preceding sentence does not
20 apply to the extent that the same dividends caused a
21 reduction to the addition modification required under
22 Section 203(a)(2)(D-17) of this Act. As used in this
23 subparagraph, the term "intangible expenses and costs"
24 includes (1) expenses, losses, and costs for, or
25 related to, the direct or indirect acquisition, use,
26 maintenance or management, ownership, sale, exchange,
27 or any other disposition of intangible property; (2)
28 losses incurred, directly or indirectly, from
29 factoring transactions or discounting transactions;
30 (3) royalty, patent, technical, and copyright fees;
31 (4) licensing fees; and (5) other similar expenses and
32 costs. For purposes of this subparagraph, "intangible
33 property" includes patents, patent applications, trade
34 names, trademarks, service marks, copyrights, mask
35 works, trade secrets, and similar types of intangible
36 assets.

1 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or
27 indirectly, from a transaction with a foreign
28 person if the taxpayer establishes by clear and
29 convincing evidence, that the adjustments are
30 unreasonable; or if the taxpayer and the Director
31 agree in writing to the application or use of an
32 alternative method of apportionment under Section
33 304(f);

34 Nothing in this subsection shall preclude the
35 Director from making any other adjustment
36 otherwise allowed under Section 404 of this Act for

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

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

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

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

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

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

20 (G) The valuation limitation amount;

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

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

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

35 (K) An amount equal to those dividends included in
36 such total that were paid by a corporation that

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

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

13 (M) With the exception of any amounts subtracted
14 under subparagraph (N), an amount equal to the sum of
15 all amounts disallowed as deductions by (i) Sections
16 171(a) (2), and 265(2) of the Internal Revenue Code of
17 1954, as now or hereafter amended, and all amounts of
18 expenses allocable to interest and disallowed as
19 deductions by Section 265(1) of the Internal Revenue
20 Code of 1954, as now or hereafter amended; and (ii) for
21 taxable years ending on or after August 13, 1999,
22 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
23 the Internal Revenue Code; the provisions of this
24 subparagraph are exempt from the provisions of Section
25 250;

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

35 (O) An amount equal to any contribution made to a
36 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

35 (V) Beginning with tax years ending on or after
36 December 31, 1995 and ending with tax years ending on

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

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

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

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

28 (Y) For taxable years beginning on or after January
29 1, 2002 and ending on or before December 31, 2004,
30 moneys contributed in the taxable year to a College
31 Savings Pool account under Section 16.5 of the State
32 Treasurer Act, except that amounts excluded from gross
33 income under Section 529(c)(3)(C)(i) of the Internal
34 Revenue Code shall not be considered moneys
35 contributed under this subparagraph (Y). For taxable
36 years beginning on or after January 1, 2005, a maximum

1 of \$10,000 contributed in the taxable year to (i) a
2 College Savings Pool account under Section 16.5 of the
3 State Treasurer Act or (ii) the Illinois Prepaid
4 Tuition Trust Fund, except that amounts excluded from
5 gross income under Section 529(c)(3)(C)(i) of the
6 Internal Revenue Code shall not be considered moneys
7 contributed under this subparagraph (Y). This
8 subparagraph (Y) is exempt from the provisions of
9 Section 250;

10 (Z) For taxable years 2001 and thereafter, for the
11 taxable year in which the bonus depreciation deduction
12 (30% of the adjusted basis of the qualified property)
13 is taken on the taxpayer's federal income tax return
14 under subsection (k) of Section 168 of the Internal
15 Revenue Code and for each applicable taxable year
16 thereafter, an amount equal to "x", where:

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

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

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

34 (AA) If the taxpayer reports a capital gain or loss
35 on the taxpayer's federal income tax return for the
36 taxable year based on a sale or transfer of property

1 for which the taxpayer was required in any taxable year
2 to make an addition modification under subparagraph
3 (D-15), then an amount equal to that addition
4 modification.

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

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

11 (CC) The amount of (i) any interest income (net of
12 the deductions allocable thereto) taken into account
13 for the taxable year with respect to a transaction with
14 a taxpayer that is required to make an addition
15 modification with respect to such transaction under
16 Section 203(a)(2)(D-17), 203(b)(2)(E-13),
17 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
18 the amount of that addition modification, and (ii) any
19 income from intangible property (net of the deductions
20 allocable thereto) taken into account for the taxable
21 year with respect to a transaction with a taxpayer that
22 is required to make an addition modification with
23 respect to such transaction under Section
24 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or
25 203(d)(2)(D-8), but not to exceed the amount of that
26 addition modification;

27 (DD) An amount equal to the interest income taken
28 into account for the taxable year (net of the
29 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-17) for

1 interest paid, accrued, or incurred, directly or
2 indirectly, to the same foreign person; ~~and~~

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

16 (FF) For taxable years ending on or after December
17 31, 2005, subject to the conditions in this
18 subparagraph, up to \$10,000, if the taxpayer, while
19 living, donates one or more of his or her human organs
20 to another human being for human organ
21 transplantation. A deduction that is claimed under
22 this subparagraph may be claimed for the taxable year
23 in which the human organ transplantation occurs. An
24 individual may claim the deduction under this
25 subparagraph only once, and the deduction may be
26 claimed for only the following unreimbursed expenses
27 that are incurred by the claimant and related to the
28 claimant's organ donation:

29 (I) travel expenses;

30 (II) lodging expenses; and

31 (III) lost wages.

32 The deduction under this subparagraph may not be
33 claimed by a part-year resident or a nonresident of
34 this State. As used in this subparagraph, "human organ"
35 means all or part of a liver, pancreas, kidney,
36 intestine, lung, or bone marrow, and "human organ

1 transplantation" means the medical procedure by which
2 transfer of a human organ is made from the body of a
3 person to the body of another person. This subparagraph
4 is exempt from the provisions of Section 250 of the
5 Act.

6 (b) Corporations.

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

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

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

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

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

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

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

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

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

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

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

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

35 (E-10) For taxable years 2001 and thereafter, an
36 amount equal to the bonus depreciation deduction (30%

1 of the adjusted basis of the qualified property) taken
2 on the taxpayer's federal income tax return for the
3 taxable year under subsection (k) of Section 168 of the
4 Internal Revenue Code; and

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

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

17 (E-12) For taxable years ending on or after
18 December 31, 2004, an amount equal to the amount
19 otherwise allowed as a deduction in computing base
20 income for interest paid, accrued, or incurred,
21 directly or indirectly, to a foreign person who would
22 be a member of the same unitary business group but for
23 the fact the foreign person's business activity
24 outside the United States is 80% or more of the foreign
25 person's total business activity. The addition
26 modification required by this subparagraph shall be
27 reduced to the extent that dividends were included in
28 base income of the unitary group for the same taxable
29 year and received by the taxpayer or by a member of the
30 taxpayer's unitary business group (including amounts
31 included in gross income pursuant to Sections 951
32 through 964 of the Internal Revenue Code and amounts
33 included in gross income under Section 78 of the
34 Internal Revenue Code) with respect to the stock of the
35 same person to whom the interest was paid, accrued, or
36 incurred.

1 This paragraph shall not apply to the following:

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

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

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

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

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

30 (iv) an item of interest paid, accrued, or
31 incurred, directly or indirectly, to a foreign
32 person if the taxpayer establishes by clear and
33 convincing evidence that the adjustments are
34 unreasonable; or if the taxpayer and the Director
35 agree in writing to the application or use of an
36 alternative method of apportionment under Section

1 304(f).

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

11 (E-13) For taxable years ending on or after
12 December 31, 2004, an amount equal to the amount of
13 intangible expenses and costs otherwise allowed as a
14 deduction in computing base income, and that were paid,
15 accrued, or incurred, directly or indirectly, to a
16 foreign person who would be a member of the same
17 unitary business group but for the fact that the
18 foreign person's business activity outside the United
19 States is 80% or more of that person's total business
20 activity. The addition modification required by this
21 subparagraph shall be reduced to the extent that
22 dividends were included in base income of the unitary
23 group for the same taxable year and received by the
24 taxpayer or by a member of the taxpayer's unitary
25 business group (including amounts included in gross
26 income pursuant to Sections 951 through 964 of the
27 Internal Revenue Code and amounts included in gross
28 income under Section 78 of the Internal Revenue Code)
29 with respect to the stock of the same person to whom
30 the intangible expenses and costs were directly or
31 indirectly paid, incurred, or accrued. The preceding
32 sentence shall not apply to the extent that the same
33 dividends caused a reduction to the addition
34 modification required under Section 203(b)(2)(E-12) of
35 this Act. As used in this subparagraph, the term
36 "intangible expenses and costs" includes (1) expenses,

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

13 This paragraph shall not apply to the following:

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

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

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

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

1 (iii) any item of intangible expense or cost
2 paid, accrued, or incurred, directly or
3 indirectly, from a transaction with a foreign
4 person if the taxpayer establishes by clear and
5 convincing evidence, that the adjustments are
6 unreasonable; or if the taxpayer and the Director
7 agree in writing to the application or use of an
8 alternative method of apportionment under Section
9 304(f);

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

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

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

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

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

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

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

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

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

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

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

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

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

1 subtraction modification available to taxpayers in any
2 year under this subsection shall be that portion of the
3 total interest paid by the borrower with respect to
4 such loan attributable to the eligible property as
5 calculated under the previous sentence;

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

14 (O) An amount equal to: (i) 85% for taxable years
15 ending on or before December 31, 1992, or, a percentage
16 equal to the percentage allowable under Section
17 243(a)(1) of the Internal Revenue Code of 1986 for
18 taxable years ending after December 31, 1992, of the
19 amount by which dividends included in taxable income
20 and received from a corporation that is not created or
21 organized under the laws of the United States or any
22 state or political subdivision thereof, including, for
23 taxable years ending on or after December 31, 1988,
24 dividends received or deemed received or paid or deemed
25 paid under Sections 951 through 964 of the Internal
26 Revenue Code, exceed the amount of the modification
27 provided under subparagraph (G) of paragraph (2) of
28 this subsection (b) which is related to such dividends;
29 plus (ii) 100% of the amount by which dividends,
30 included in taxable income and received, including,
31 for taxable years ending on or after December 31, 1988,
32 dividends received or deemed received or paid or deemed
33 paid under Sections 951 through 964 of the Internal
34 Revenue Code, from any such corporation specified in
35 clause (i) that would but for the provisions of Section
36 1504 (b) (3) of the Internal Revenue Code be treated as

1 a member of the affiliated group which includes the
2 dividend recipient, exceed the amount of the
3 modification provided under subparagraph (G) of
4 paragraph (2) of this subsection (b) which is related
5 to such dividends;

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

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

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

24 (S) For taxable years ending on or after December
25 31, 1997, in the case of a Subchapter S corporation, an
26 amount equal to all amounts of income allocable to a
27 shareholder subject to the Personal Property Tax
28 Replacement Income Tax imposed by subsections (c) and
29 (d) of Section 201 of this Act, including amounts
30 allocable to organizations exempt from federal income
31 tax by reason of Section 501(a) of the Internal Revenue
32 Code. This subparagraph (S) is exempt from the
33 provisions of Section 250;

34 (T) 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 (U) 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 (E-10), 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 (V) The amount of: (i) any interest income (net of
33 the deductions allocable thereto) taken into account
34 for the taxable year with respect to a transaction with
35 a taxpayer that is required to make an addition
36 modification with respect to such transaction under

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

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

24 (X) An amount equal to the income from intangible
25 property taken into account for the taxable year (net
26 of the deductions allocable thereto) with respect to
27 transactions with a foreign person who would be a
28 member of the taxpayer's unitary business group but for
29 the fact that the foreign person's business activity
30 outside the United States is 80% or more of that
31 person's total business activity, but not to exceed the
32 addition modification required to be made for the same
33 taxable year under Section 203(b)(2)(E-13) for
34 intangible expenses and costs paid, accrued, or
35 incurred, directly or indirectly, to the same foreign
36 person.

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

5 (c) Trusts and estates.

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

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

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

17 (B) In the case of (i) an estate, \$600; (ii) a
18 trust which, under its governing instrument, is
19 required to distribute all of its income currently,
20 \$300; and (iii) any other trust, \$100, but in each such
21 case, only to the extent such amount was deducted in
22 the computation of taxable income;

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

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

30 (E) For taxable years in which a net operating loss
31 carryback or carryforward from a taxable year ending
32 prior to December 31, 1986 is an element of taxable
33 income under paragraph (1) of subsection (e) or
34 subparagraph (E) of paragraph (2) of subsection (e),
35 the amount by which addition modifications other than

1 those provided by this subparagraph (E) exceeded
2 subtraction modifications in such taxable year, with
3 the following limitations applied in the order that
4 they are listed:

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

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

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

25 (F) For taxable years ending on or after January 1,
26 1989, an amount equal to the tax deducted pursuant to
27 Section 164 of the Internal Revenue Code if the trust
28 or estate is claiming the same tax for purposes of the
29 Illinois foreign tax credit under Section 601 of this
30 Act;

31 (G) 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 taxable income;

35 (G-5) For taxable years ending after December 31,
36 1997, an amount equal to any eligible remediation costs

1 that the trust or estate deducted in computing adjusted
2 gross income and for which the trust or estate claims a
3 credit under subsection (l) of Section 201;

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

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

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

22 (G-12) For taxable years ending on or after
23 December 31, 2004, an amount equal to the amount
24 otherwise allowed as a deduction in computing base
25 income for interest paid, accrued, or incurred,
26 directly or indirectly, to a foreign person who would
27 be a member of the same unitary business group but for
28 the fact that the foreign person's business activity
29 outside the United States is 80% or more of the foreign
30 person's total business activity. The addition
31 modification required by this subparagraph shall be
32 reduced to the extent that dividends were included in
33 base income of the unitary group for the same taxable
34 year and received by the taxpayer or by a member of the
35 taxpayer's unitary business group (including amounts
36 included in gross income pursuant to Sections 951

1 through 964 of the Internal Revenue Code and amounts
2 included in gross income under Section 78 of the
3 Internal Revenue Code) with respect to the stock of the
4 same person to whom the interest was paid, accrued, or
5 incurred.

6 This paragraph shall not apply to the following:

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

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

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

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

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

35 (iv) an item of interest paid, accrued, or
36 incurred, directly or indirectly, to a foreign

1 person if the taxpayer establishes by clear and
2 convincing evidence that the adjustments are
3 unreasonable; or if the taxpayer and the Director
4 agree in writing to the application or use of an
5 alternative method of apportionment under Section
6 304(f).

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

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

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

18 This paragraph shall not apply to the following:

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

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

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

35 (b) the transaction giving rise to the
36 intangible expense or cost between the

1 taxpayer and the foreign person did not have as
2 a principal purpose the avoidance of Illinois
3 income tax, and is paid pursuant to a contract
4 or agreement that reflects arm's-length terms;
5 or

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

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

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

26 (H) An amount equal to all amounts included in such
27 total pursuant to the provisions of Sections 402(a),
28 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
29 Internal Revenue Code or included in such total as
30 distributions under the provisions of any retirement
31 or disability plan for employees of any governmental
32 agency or unit, or retirement payments to retired
33 partners, which payments are excluded in computing net
34 earnings from self employment by Section 1402 of the
35 Internal Revenue Code and regulations adopted pursuant
36 thereto;

1 (I) The valuation limitation amount;

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

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

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

35 (N) An amount equal to any contribution made to a
36 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

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

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

13 (R) For taxable years 2001 and thereafter, for the
14 taxable year in which the bonus depreciation deduction
15 (30% of the adjusted basis of the qualified property)
16 is taken on the taxpayer's federal income tax return
17 under subsection (k) of Section 168 of the Internal
18 Revenue Code and for each applicable taxable year
19 thereafter, an amount equal to "x", where:

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

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

30 The aggregate amount deducted under this
31 subparagraph in all taxable years for any one piece of
32 property may not exceed the amount of the bonus
33 depreciation deduction (30% of the adjusted basis of
34 the qualified property) taken on that property on the
35 taxpayer's federal income tax return under subsection
36 (k) of Section 168 of the Internal Revenue Code;

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

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

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

27 (U) An amount equal to the interest income taken
28 into account for the taxable year (net of the
29 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 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(c)(2)(G-12) for

1 interest paid, accrued, or incurred, directly or
2 indirectly, to the same foreign person; and

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

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

23 (d) Partnerships.

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

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

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

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

1 the taxable year;

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

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

9 (D-5) For taxable years 2001 and thereafter, an
10 amount equal to the bonus depreciation deduction (30%
11 of the adjusted basis of the qualified property) taken
12 on the taxpayer's federal income tax return for the
13 taxable year under subsection (k) of Section 168 of the
14 Internal Revenue Code;

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

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

27 (D-7) For taxable years ending on or after December
28 31, 2004, an amount equal to the amount otherwise
29 allowed as a deduction in computing base income for
30 interest paid, accrued, or incurred, directly or
31 indirectly, to a foreign person who would be a member
32 of the same unitary business group but for the fact the
33 foreign person's business activity outside the United
34 States is 80% or more of the foreign person's total
35 business activity. The addition modification required
36 by this subparagraph shall be reduced to the extent

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

10 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

20 (D-8) For taxable years ending on or after December
21 31, 2004, an amount equal to the amount of intangible
22 expenses and costs otherwise allowed as a deduction in
23 computing base income, and that were paid, accrued, or
24 incurred, directly or indirectly, to a foreign person
25 who would be a member of the same unitary business
26 group but for the fact that the foreign person's
27 business activity outside the United States is 80% or
28 more of that person's total business activity. The
29 addition modification required by this subparagraph
30 shall be reduced to the extent that dividends were
31 included in base income of the unitary group for the
32 same taxable year and received by the taxpayer or by a
33 member of the taxpayer's unitary business group
34 (including amounts included in gross income pursuant
35 to Sections 951 through 964 of the Internal Revenue
36 Code and amounts included in gross income under Section

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

22 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

30 (E) The valuation limitation amount;

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

34 (G) An amount equal to all amounts included in
35 taxable income as modified by subparagraphs (A), (B),
36 (C) and (D) which are exempt from taxation by this

1 State either by reason of its statutes or Constitution
2 or by reason of the Constitution, treaties or statutes
3 of the United States; provided that, in the case of any
4 statute of this State that exempts income derived from
5 bonds or other obligations from the tax imposed under
6 this Act, the amount exempted shall be the interest net
7 of bond premium amortization;

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

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

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

34 (K) An amount equal to those dividends included in
35 such total which were paid by a corporation which
36 conducts business operations in an Enterprise Zone or

1 zones created under the Illinois Enterprise Zone Act,
2 enacted by the 82nd General Assembly, and conducts
3 substantially all of its operations in an Enterprise
4 Zone or Zones;

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

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

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

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

29 (1) "y" equals the amount of the depreciation
30 deduction taken for the taxable year on the
31 taxpayer's federal income tax return on property
32 for which the bonus depreciation deduction (30% of
33 the adjusted basis of the qualified property) was
34 taken in any year under subsection (k) of Section
35 168 of the Internal Revenue Code, but not including
36 the bonus depreciation deduction; and

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

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

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

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

20 (Q) The amount of (i) any interest income (net of
21 the deductions allocable thereto) taken into account
22 for the taxable year with respect to a transaction with
23 a taxpayer that is required to make an addition
24 modification with respect to such transaction under
25 Section 203(a) (2) (D-17), 203(b) (2) (E-12),
26 203(c) (2) (G-12), or 203(d) (2) (D-7), but not to exceed
27 the amount of such addition modification and (ii) any
28 income from intangible property (net of the deductions
29 allocable thereto) taken into account for the taxable
30 year with respect to a transaction with a taxpayer that
31 is required to make an addition modification with
32 respect to such transaction under Section
33 203(a) (2) (D-18), 203(b) (2) (E-13), 203(c) (2) (G-13), or
34 203(d) (2) (D-8), but not to exceed the amount of such
35 addition modification;

36 (R) An amount equal to the interest income taken

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

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

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

26 (1) In general. Subject to the provisions of paragraph
27 (2) and subsection (b) (3), for purposes of this Section
28 and Section 803(e), a taxpayer's gross income, adjusted
29 gross income, or taxable income for the taxable year shall
30 mean the amount of gross income, adjusted gross income or
31 taxable income properly reportable for federal income tax
32 purposes for the taxable year under the provisions of the
33 Internal Revenue Code. Taxable income may be less than
34 zero. However, for taxable years ending on or after
35 December 31, 1986, net operating loss carryforwards from

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

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

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

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

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

5 (D) Real estate investment trusts. In the case of a
6 real estate investment trust subject to the tax imposed
7 by Section 857 of the Internal Revenue Code, real
8 estate investment trust taxable income;

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

21 (F) Cooperatives. In the case of a cooperative
22 corporation or association, the taxable income of such
23 organization determined in accordance with the
24 provisions of Section 1381 through 1388 of the Internal
25 Revenue Code;

26 (G) Subchapter S corporations. In the case of: (i)
27 a Subchapter S corporation for which there is in effect
28 an election for the taxable year under Section 1362 of
29 the Internal Revenue Code, the taxable income of such
30 corporation determined in accordance with Section
31 1363(b) of the Internal Revenue Code, except that
32 taxable income shall take into account those items
33 which are required by Section 1363(b)(1) of the
34 Internal Revenue Code to be separately stated; and (ii)
35 a Subchapter S corporation for which there is in effect
36 a federal election to opt out of the provisions of the

1 Subchapter S Revision Act of 1982 and have applied
2 instead the prior federal Subchapter S rules as in
3 effect on July 1, 1982, the taxable income of such
4 corporation determined in accordance with the federal
5 Subchapter S rules as in effect on July 1, 1982; and

6 (H) Partnerships. In the case of a partnership,
7 taxable income determined in accordance with Section
8 703 of the Internal Revenue Code, except that taxable
9 income shall take into account those items which are
10 required by Section 703(a)(1) to be separately stated
11 but which would be taken into account by an individual
12 in calculating his taxable income.

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

30 (f) Valuation limitation amount.

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

34 (A) The sum of the pre-August 1, 1969 appreciation
35 amounts (to the extent consisting of gain reportable
36 under the provisions of Section 1245 or 1250 of the

1 Internal Revenue Code) for all property in respect of
2 which such gain was reported for the taxable year; plus

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

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

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

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

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

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

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

13 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
14 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
15 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
16 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.