



Sen. Don Harmon

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1 AMENDMENT TO HOUSE BILL 709

2 AMENDMENT NO. _____. Amend House Bill 709 by replacing
3 everything after the enacting clause with the following:

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

1 the computation of adjusted gross income for the
2 taxable year;

3 (C) An amount equal to the amount received during
4 the taxable year as a recovery or refund of real
5 property taxes paid with respect to the taxpayer's
6 principal residence under the Revenue Act of 1939 and
7 for which a deduction was previously taken under
8 subparagraph (L) of this paragraph (2) prior to July 1,
9 1991, the retrospective application date of Article 4
10 of Public Act 87-17. In the case of multi-unit or
11 multi-use structures and farm dwellings, the taxes on
12 the taxpayer's principal residence shall be that
13 portion of the total taxes for the entire property
14 which is attributable to such principal residence;

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

19 (D-5) An amount, to the extent not included in
20 adjusted gross income, equal to the amount of money
21 withdrawn by the taxpayer in the taxable year from a
22 medical care savings account and the interest earned on
23 the account in the taxable year of a withdrawal
24 pursuant to subsection (b) of Section 20 of the Medical
25 Care Savings Account Act or subsection (b) of Section
26 20 of the Medical Care Savings Account Act of 2000;

27 (D-10) For taxable years ending after December 31,
28 1997, an amount equal to any eligible remediation costs
29 that the individual deducted in computing adjusted
30 gross income and for which the individual claims a
31 credit under subsection (l) of Section 201;

32 (D-15) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction ~~(30%~~
34 ~~of the adjusted basis of the qualified property)~~ taken

1 on the taxpayer's federal income tax return for the
2 taxable year under subsection (k) of Section 168 of the
3 Internal Revenue Code;

4 (D-16) If the taxpayer sells, transfers, abandons,
5 or otherwise disposes of ~~reports a capital gain or loss~~
6 ~~on the taxpayer's federal income tax return for the~~
7 ~~taxable year based on a sale or transfer of~~ property
8 for which the taxpayer was required in any taxable year
9 to make an addition modification under subparagraph
10 (D-15), then an amount equal to the aggregate amount of
11 the deductions taken in all taxable years under
12 subparagraph (Z) with respect to that property.

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

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

1 agree in writing to the application or use of an
2 alternative method of apportionment under Section
3 304(f).

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

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

1 reduction to the addition modification required under
2 Section 203(a)(2)(D-17) of this Act. As used in this
3 subparagraph, the term "intangible expenses and costs"
4 includes (1) expenses, losses, and costs for, or
5 related to, the direct or indirect acquisition, use,
6 maintenance or management, ownership, sale, exchange,
7 or any other disposition of intangible property; (2)
8 losses incurred, directly or indirectly, from
9 factoring transactions or discounting transactions;
10 (3) royalty, patent, technical, and copyright fees;
11 (4) licensing fees; and (5) other similar expenses and
12 costs. For purposes of this subparagraph, "intangible
13 property" includes patents, patent applications, trade
14 names, trademarks, service marks, copyrights, mask
15 works, trade secrets, and similar types of intangible
16 assets.

17 This paragraph shall not apply to the following:

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

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

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

34 (b) the transaction giving rise to the

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

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

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

25 (D-20) For taxable years beginning on or after
26 January 1, 2002, in the case of a distribution from a
27 qualified tuition program under Section 529 of the
28 Internal Revenue Code, other than (i) a distribution
29 from a College Savings Pool created under Section 16.5
30 of the State Treasurer Act or (ii) a distribution from
31 the Illinois Prepaid Tuition Trust Fund, an amount
32 equal to the amount excluded from gross income under
33 Section 529(c)(3)(B);

34 and by deducting from the total so obtained the sum of the

1 following amounts:

2 (E) For taxable years ending before December 31,
3 2001, any amount included in such total in respect of
4 any compensation (including but not limited to any
5 compensation paid or accrued to a serviceman while a
6 prisoner of war or missing in action) paid to a
7 resident by reason of being on active duty in the Armed
8 Forces of the United States and in respect of any
9 compensation paid or accrued to a resident who as a
10 governmental employee was a prisoner of war or missing
11 in action, and in respect of any compensation paid to a
12 resident in 1971 or thereafter for annual training
13 performed pursuant to Sections 502 and 503, Title 32,
14 United States Code as a member of the Illinois National
15 Guard. For taxable years ending on or after December
16 31, 2001, any amount included in such total in respect
17 of any compensation (including but not limited to any
18 compensation paid or accrued to a serviceman while a
19 prisoner of war or missing in action) paid to a
20 resident by reason of being a member of any component
21 of the Armed Forces of the United States and in respect
22 of any compensation paid or accrued to a resident who
23 as a governmental employee was a prisoner of war or
24 missing in action, and in respect of any compensation
25 paid to a resident in 2001 or thereafter by reason of
26 being a member of the Illinois National Guard. The
27 provisions of this amendatory Act of the 92nd General
28 Assembly are exempt from the provisions of Section 250;

29 (F) An amount equal to all amounts included in such
30 total pursuant to the provisions of Sections 402(a),
31 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
32 Internal Revenue Code, or included in such total as
33 distributions under the provisions of any retirement
34 or disability plan for employees of any governmental

1 agency or unit, or retirement payments to retired
2 partners, which payments are excluded in computing net
3 earnings from self employment by Section 1402 of the
4 Internal Revenue Code and regulations adopted pursuant
5 thereto;

6 (G) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

1 an indemnity for a terminal illness;

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

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

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

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

25 (V) Beginning with tax years ending on or after
26 December 31, 1995 and ending with tax years ending on
27 or before December 31, 2004, an amount equal to the
28 amount paid by a taxpayer who is a self-employed
29 taxpayer, a partner of a partnership, or a shareholder
30 in a Subchapter S corporation for health insurance or
31 long-term care insurance for that taxpayer or that
32 taxpayer's spouse or dependents, to the extent that the
33 amount paid for that health insurance or long-term care
34 insurance may be deducted under Section 213 of the

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

18 (W) For taxable years beginning on or after January
19 1, 1998, all amounts included in the taxpayer's federal
20 gross income in the taxable year from amounts converted
21 from a regular IRA to a Roth IRA. This paragraph is
22 exempt from the provisions of Section 250;

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

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

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

1 gross income under Section 529(c)(3)(C)(i) of the
2 Internal Revenue Code shall not be considered moneys
3 contributed under this subparagraph (Y). This
4 subparagraph (Y) is exempt from the provisions of
5 Section 250;

6 (Z) For taxable years 2001 and thereafter, for the
7 taxable year in which the bonus depreciation deduction
8 ~~(30% of the adjusted basis of the qualified property)~~
9 is taken on the taxpayer's federal income tax return
10 under subsection (k) of Section 168 of the Internal
11 Revenue Code and for each applicable taxable year
12 thereafter, an amount equal to "x", where:

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

21 (2) for taxable years ending on or before
22 December 31, 2005, "x" equals "y" multiplied by 30
23 and then divided by 70 (or "y" multiplied by
24 0.429); and

25 (3) for taxable years ending after December
26 31, 2005:

27 (i) for property on which a bonus
28 depreciation deduction of 30% of the adjusted
29 basis was taken, "x" equals "y" multiplied by
30 30 and then divided by 70 (or "y" multiplied by
31 0.429); and

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

1 1.0.

2 The aggregate amount deducted under this
3 subparagraph in all taxable years for any one piece of
4 property may not exceed the amount of the bonus
5 depreciation deduction ~~(30% of the adjusted basis of~~
6 ~~the qualified property)~~ taken on that property on the
7 taxpayer's federal income tax return under subsection
8 (k) of Section 168 of the Internal Revenue Code. This
9 subparagraph (Z) is exempt from the provisions of
10 Section 250;

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

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

22 This subparagraph (AA) is exempt from the
23 provisions of Section 250;

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

27 (CC) The amount of (i) any interest income (net of
28 the deductions allocable thereto) taken into account
29 for the taxable year with respect to a transaction with
30 a taxpayer that is required to make an addition
31 modification with respect to such transaction under
32 Section 203(a)(2)(D-17), 203(b)(2) (E-12) ~~(E-13)~~,
33 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
34 the amount of that addition modification, and (ii) any

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

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

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

1 (b) Corporations.

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

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

8 (A) An amount equal to all amounts paid or accrued
9 to the taxpayer as interest and all distributions
10 received from regulated investment companies during
11 the taxable year to the extent excluded from gross
12 income in the computation of taxable income;

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

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

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),

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

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

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

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

26 (E-5) For taxable years ending after December 31,
27 1997, an amount equal to any eligible remediation costs
28 that the corporation deducted in computing adjusted
29 gross income and for which the corporation claims a
30 credit under subsection (l) of Section 201;

31 (E-10) For taxable years 2001 and thereafter, an
32 amount equal to the bonus depreciation deduction ~~(30%~~
33 ~~of the adjusted basis of the qualified property)~~ taken
34 on the taxpayer's federal income tax return for the

1 taxable year under subsection (k) of Section 168 of the
2 Internal Revenue Code; and

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

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

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

1 agree in writing to the application or use of an
2 alternative method of apportionment under Section
3 304(f).

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

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

1 dividends caused a reduction to the addition
2 modification required under Section 203(b)(2)(E-12) of
3 this Act. As used in this subparagraph, the term
4 "intangible expenses and costs" includes (1) expenses,
5 losses, and costs for, or related to, the direct or
6 indirect acquisition, use, maintenance or management,
7 ownership, sale, exchange, or any other disposition of
8 intangible property; (2) losses incurred, directly or
9 indirectly, from factoring transactions or discounting
10 transactions; (3) royalty, patent, technical, and
11 copyright fees; (4) licensing fees; and (5) other
12 similar expenses and costs. For purposes of this
13 subparagraph, "intangible property" includes patents,
14 patent applications, trade names, trademarks, service
15 marks, copyrights, mask works, trade secrets, and
16 similar types of intangible assets.

17 This paragraph shall not apply to the following:

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

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

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

34 (b) the transaction giving rise to the

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

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

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

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

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

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

32 (H) In the case of a regulated investment company,
33 an amount equal to the amount of exempt interest
34 dividends as defined in subsection (b) (5) of Section

1 852 of the Internal Revenue Code, paid to shareholders
2 for the taxable year;

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

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

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

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

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

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

27 (M-1) For any taxpayer that is a financial
28 organization within the meaning of Section 304(c) of
29 this Act, an amount included in such total as interest
30 income from a loan or loans made by such taxpayer to a
31 borrower, to the extent that such a loan is secured by
32 property which is eligible for the High Impact Business
33 Investment Credit. To determine the portion of a loan
34 or loans that is secured by property eligible for a

1 Section 201(h) investment credit to the borrower, the
2 entire principal amount of the loan or loans between
3 the taxpayer and the borrower should be divided into
4 the basis of the Section 201(h) investment credit
5 property which secures the loan or loans, using for
6 this purpose the original basis of such property on the
7 date that it was placed in service in a federally
8 designated Foreign Trade Zone or Sub-Zone located in
9 Illinois. No taxpayer that is eligible for the
10 deduction provided in subparagraph (M) of paragraph
11 (2) of this subsection shall be eligible for the
12 deduction provided under this subparagraph (M-1). The
13 subtraction modification available to taxpayers in any
14 year under this subsection shall be that portion of the
15 total interest paid by the borrower with respect to
16 such loan attributable to the eligible property as
17 calculated under the previous sentence;

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

26 (O) An amount equal to: (i) 85% for taxable years
27 ending on or before December 31, 1992, or, a percentage
28 equal to the percentage allowable under Section
29 243(a)(1) of the Internal Revenue Code of 1986 for
30 taxable years ending after December 31, 1992, of the
31 amount by which dividends included in taxable income
32 and received from a corporation that is not created or
33 organized under the laws of the United States or any
34 state or political subdivision thereof, including, for

1 taxable years ending on or after December 31, 1988,
2 dividends received or deemed received or paid or deemed
3 paid under Sections 951 through 964 of the Internal
4 Revenue Code, exceed the amount of the modification
5 provided under subparagraph (G) of paragraph (2) of
6 this subsection (b) which is related to such dividends;
7 plus (ii) 100% of the amount by which dividends,
8 included in taxable income and received, including,
9 for taxable years ending on or after December 31, 1988,
10 dividends received or deemed received or paid or deemed
11 paid under Sections 951 through 964 of the Internal
12 Revenue Code, from any such corporation specified in
13 clause (i) that would but for the provisions of Section
14 1504 (b) (3) of the Internal Revenue Code be treated as
15 a member of the affiliated group which includes the
16 dividend recipient, exceed the amount of the
17 modification provided under subparagraph (G) of
18 paragraph (2) of this subsection (b) which is related
19 to such dividends;

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

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

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

1 that interinsurer or reciprocal insurer with respect
2 to the attorney-in-fact under Section 835(b) of the
3 Internal Revenue Code for the taxable year;

4 (S) For taxable years ending on or after December
5 31, 1997, in the case of a Subchapter S corporation, an
6 amount equal to all amounts of income allocable to a
7 shareholder subject to the Personal Property Tax
8 Replacement Income Tax imposed by subsections (c) and
9 (d) of Section 201 of this Act, including amounts
10 allocable to organizations exempt from federal income
11 tax by reason of Section 501(a) of the Internal Revenue
12 Code. This subparagraph (S) is exempt from the
13 provisions of Section 250;

14 (T) For taxable years 2001 and thereafter, for the
15 taxable year in which the bonus depreciation deduction
16 ~~(30% of the adjusted basis of the qualified property)~~
17 is taken on the taxpayer's federal income tax return
18 under subsection (k) of Section 168 of the Internal
19 Revenue Code and for each applicable taxable year
20 thereafter, an amount equal to "x", where:

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

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

33 (3) for taxable years ending after December
34 31, 2005:

1 (i) for property on which a bonus
2 depreciation deduction of 30% of the adjusted
3 basis was taken, "x" equals "y" multiplied by
4 30 and then divided by 70 (or "y" multiplied by
5 0.429); and

6 (ii) for property on which a bonus
7 depreciation deduction of 50% of the adjusted
8 basis was taken, "x" equals "y" multiplied by
9 1.0.

10 The aggregate amount deducted under this
11 subparagraph in all taxable years for any one piece of
12 property may not exceed the amount of the bonus
13 depreciation deduction ~~(30% of the adjusted basis of~~
14 ~~the qualified property)~~ taken on that property on the
15 taxpayer's federal income tax return under subsection
16 (k) of Section 168 of the Internal Revenue Code. This
17 subparagraph (T) is exempt from the provisions of
18 Section 250;

19 (U) If the taxpayer sells, transfers, abandons, or
20 otherwise disposes of ~~reports a capital gain or loss on~~
21 ~~the taxpayer's federal income tax return for the~~
22 ~~taxable year based on a sale or transfer of~~ property
23 for which the taxpayer was required in any taxable year
24 to make an addition modification under subparagraph
25 (E-10), then an amount equal to that addition
26 modification.

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

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

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

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

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

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

1 taxable year under Section 203(b)(2)(E-13) for
2 intangible expenses and costs paid, accrued, or
3 incurred, directly or indirectly, to the same foreign
4 person.

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

9 (c) Trusts and estates.

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

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

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

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

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

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

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

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

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

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

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

1 Illinois foreign tax credit under Section 601 of this
2 Act;

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

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

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

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

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

30 (G-12) For taxable years ending on or after
31 December 31, 2004, an amount equal to the amount
32 otherwise allowed as a deduction in computing base
33 income for interest paid, accrued, or incurred,
34 directly or indirectly, to a foreign person who would

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

16 This paragraph shall not apply to the following:

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

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

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

32 (b) the transaction giving rise to the
33 interest expense between the taxpayer and the
34 foreign person did not have as a principal

1 purpose the avoidance of Illinois income tax,
2 and is paid pursuant to a contract or agreement
3 that reflects an arm's-length interest rate
4 and terms; or

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

11 (iv) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to 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 (G-13) For taxable years ending on or after
29 December 31, 2004, an amount equal to the amount of
30 intangible expenses and costs otherwise allowed as a
31 deduction in computing base income, and that were paid,
32 accrued, or incurred, directly or indirectly, to a
33 foreign person who would be a member of the same
34 unitary business group but for the fact that the

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

32 This paragraph shall not apply to the following:

33 (i) any item of intangible expenses or costs
34 paid, accrued, or incurred, directly or

1 indirectly, from a transaction with a foreign
2 person who is subject in a foreign country or
3 state, other than a state which requires mandatory
4 unitary reporting, to a tax on or measured by net
5 income with respect to such item; or

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

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

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

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

31 Nothing in this subsection shall preclude the
32 Director from making any other adjustment
33 otherwise allowed under Section 404 of this Act for
34 any tax year beginning after the effective date of

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

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

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

19 (I) The valuation limitation amount;

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

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

34 (L) With the exception of any amounts subtracted

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

13 (M) An amount equal to those dividends included in
14 such total which were paid by a corporation which
15 conducts business operations in an Enterprise Zone or
16 zones created under the Illinois Enterprise Zone Act
17 and conducts substantially all of its operations in an
18 Enterprise Zone or Zones;

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

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

31 (P) An amount equal to the amount of the deduction
32 used to compute the federal income tax credit for
33 restoration of substantial amounts held under claim of
34 right for the taxable year pursuant to Section 1341 of

1 the Internal Revenue Code of 1986;

2 (Q) For taxable year 1999 and thereafter, an amount
3 equal to the amount of any (i) distributions, to the
4 extent includible in gross income for federal income
5 tax purposes, made to the taxpayer because of his or
6 her status as a victim of persecution for racial or
7 religious reasons by Nazi Germany or any other Axis
8 regime or as an heir of the victim and (ii) items of
9 income, to the extent includible in gross income for
10 federal income tax purposes, attributable to, derived
11 from or in any way related to assets stolen from,
12 hidden from, or otherwise lost to a victim of
13 persecution for racial or religious reasons by Nazi
14 Germany or any other Axis regime immediately prior to,
15 during, and immediately after World War II, including,
16 but not limited to, interest on the proceeds receivable
17 as insurance under policies issued to a victim of
18 persecution for racial or religious reasons by Nazi
19 Germany or any other Axis regime by European insurance
20 companies immediately prior to and during World War II;
21 provided, however, this subtraction from federal
22 adjusted gross income does not apply to assets acquired
23 with such assets or with the proceeds from the sale of
24 such assets; provided, further, this paragraph shall
25 only apply to a taxpayer who was the first recipient of
26 such assets after their recovery and who is a victim of
27 persecution for racial or religious reasons by Nazi
28 Germany or any other Axis regime or as an heir of the
29 victim. The amount of and the eligibility for any
30 public assistance, benefit, or similar entitlement is
31 not affected by the inclusion of items (i) and (ii) of
32 this paragraph in gross income for federal income tax
33 purposes. This paragraph is exempt from the provisions
34 of Section 250;

1 (R) For taxable years 2001 and thereafter, for the
2 taxable year in which the bonus depreciation deduction
3 ~~(30% of the adjusted basis of the qualified property)~~
4 is taken on the taxpayer's federal income tax return
5 under subsection (k) of Section 168 of the Internal
6 Revenue Code and for each applicable taxable year
7 thereafter, an amount equal to "x", where:

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

16 (2) for taxable years ending on or before
17 December 31, 2005, "x" equals "y" multiplied by 30
18 and then divided by 70 (or "y" multiplied by
19 0.429); and

20 (3) for taxable years ending after December
21 31, 2005:

22 (i) for property on which a bonus
23 depreciation deduction of 30% of the adjusted
24 basis was taken, "x" equals "y" multiplied by
25 30 and then divided by 70 (or "y" multiplied by
26 0.429); and

27 (ii) for property on which a bonus
28 depreciation deduction of 50% of the adjusted
29 basis was taken, "x" equals "y" multiplied by
30 1.0.

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

1 ~~the qualified property)~~ taken on that property on the
2 taxpayer's federal income tax return under subsection
3 (k) of Section 168 of the Internal Revenue Code. This
4 subparagraph (R) is exempt from the provisions of
5 Section 250;

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

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

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

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

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

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

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

33 (d) Partnerships.

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

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

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

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

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

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

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

27 (D-6) If the taxpayer sells, transfers, abandons,
28 or otherwise disposes of ~~reports a capital gain or loss~~
29 ~~on the taxpayer's federal income tax return for the~~
30 ~~taxable year based on a sale or transfer of~~ property
31 for which the taxpayer was required in any taxable year
32 to make an addition modification under subparagraph
33 (D-5), then an amount equal to the aggregate amount of
34 the deductions taken in all taxable years under

1 subparagraph (O) with respect to that property.

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

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

24 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

19 (iv) an item of interest paid, accrued, or
20 incurred, directly or indirectly, to a foreign
21 person if the taxpayer establishes by clear and
22 convincing evidence that the adjustments are
23 unreasonable; or if the taxpayer and the Director
24 agree in writing to the application or use of an
25 alternative method of apportionment under Section
26 304(f).

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

1 under Section 404 of this Act; and

2 (D-8) For taxable years ending on or after December
3 31, 2004, an amount equal to the amount of intangible
4 expenses and costs otherwise allowed as a deduction in
5 computing base income, and that were paid, accrued, or
6 incurred, directly or indirectly, to a foreign person
7 who would be a member of the same unitary business
8 group but for the fact that the foreign person's
9 business activity outside the United States is 80% or
10 more of that person's total business activity. The
11 addition modification required by this subparagraph
12 shall be reduced to the extent that dividends were
13 included in base income of the unitary group for the
14 same taxable year and received by the taxpayer or by a
15 member of the taxpayer's unitary business group
16 (including amounts included in gross income pursuant
17 to Sections 951 through 964 of the Internal Revenue
18 Code and amounts included in gross income under Section
19 78 of the Internal Revenue Code) with respect to the
20 stock of the same person to whom the intangible
21 expenses and costs were directly or indirectly paid,
22 incurred or accrued. The preceding sentence shall not
23 apply to the extent that the same dividends caused a
24 reduction to the addition modification required under
25 Section 203(d)(2) (D-7) of this Act. As used in this
26 subparagraph, the term "intangible expenses and costs"
27 includes (1) expenses, losses, and costs for, or
28 related to, the direct or indirect acquisition, use,
29 maintenance or management, ownership, sale, exchange,
30 or any other disposition of intangible property; (2)
31 losses incurred, directly or indirectly, from
32 factoring transactions or discounting transactions;
33 (3) royalty, patent, technical, and copyright fees;
34 (4) licensing fees; and (5) other similar expenses and

1 costs. For purposes of this subparagraph, "intangible
2 property" includes patents, patent applications, trade
3 names, trademarks, service marks, copyrights, mask
4 works, trade secrets, and similar types of intangible
5 assets;

6 This paragraph shall not apply to the following:

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

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

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

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

30 (iii) any item of intangible expense or cost
31 paid, accrued, or incurred, directly or
32 indirectly, from a transaction with a foreign
33 person if the taxpayer establishes by clear and
34 convincing evidence, that the adjustments are

1 unreasonable; or if the taxpayer and the Director
2 agree in writing to the application or use of an
3 alternative method of apportionment under Section
4 304(f);

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

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

16 (E) The valuation limitation amount;

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

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

30 (H) Any income of the partnership which
31 constitutes personal service income as defined in
32 Section 1348 (b) (1) of the Internal Revenue Code (as
33 in effect December 31, 1981) or a reasonable allowance
34 for compensation paid or accrued for services rendered

1 by partners to the partnership, whichever is greater;

2 (I) An amount equal to all amounts of income
3 distributable to an entity subject to the Personal
4 Property Tax Replacement Income Tax imposed by
5 subsections (c) and (d) of Section 201 of this Act
6 including amounts distributable to organizations
7 exempt from federal income tax by reason of Section
8 501(a) of the Internal Revenue Code;

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

22 (K) An amount equal to those dividends included in
23 such total which were paid by a corporation which
24 conducts business operations in an Enterprise Zone or
25 zones created under the Illinois Enterprise Zone Act,
26 enacted by the 82nd General Assembly, and conducts
27 substantially all of its operations in an Enterprise
28 Zone or Zones;

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

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

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

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

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

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

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

31 (3) for taxable years ending after December
32 31, 2005:

33 (i) for property on which a bonus
34 depreciation deduction of 30% of the adjusted

1 basis was taken, "x" equals "y" multiplied by
2 30 and then divided by 70 (or "y" multiplied by
3 0.429); and

4 (ii) for property on which a bonus
5 depreciation deduction of 50% of the adjusted
6 basis was taken, "x" equals "y" multiplied by
7 1.0.

8 The aggregate amount deducted under this
9 subparagraph in all taxable years for any one piece of
10 property may not exceed the amount of the bonus
11 depreciation deduction ~~(30% of the adjusted basis of~~
12 ~~the qualified property)~~ taken on that property on the
13 taxpayer's federal income tax return under subsection
14 (k) of Section 168 of the Internal Revenue Code. This
15 subparagraph (O) is exempt from the provisions of
16 Section 250;

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

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

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

30 (Q) The amount of (i) any interest income (net of
31 the deductions allocable thereto) taken into account
32 for the taxable year with respect to a transaction with
33 a taxpayer that is required to make an addition
34 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 (R) 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(d)(2)(D-7) for interest
22 paid, accrued, or incurred, directly or indirectly, to
23 the same foreign person; and

24 (S) 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(d)(2)(D-8) for
34 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same foreign
2 person.

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

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

1 (e) applied in conjunction with Section 172 of the Internal
2 Revenue Code.

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

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

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

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

21 (D) Real estate investment trusts. In the case of a
22 real estate investment trust subject to the tax imposed
23 by Section 857 of the Internal Revenue Code, real
24 estate investment trust taxable income;

25 (E) Consolidated corporations. In the case of a
26 corporation which is a member of an affiliated group of
27 corporations filing a consolidated income tax return
28 for the taxable year for federal income tax purposes,
29 taxable income determined as if such corporation had
30 filed a separate return for federal income tax purposes
31 for the taxable year and each preceding taxable year
32 for which it was a member of an affiliated group. For
33 purposes of this subparagraph, the taxpayer's separate
34 taxable income shall be determined as if the election

1 provided by Section 243(b) (2) of the Internal Revenue
2 Code had been in effect for all such years;

3 (F) Cooperatives. In the case of a cooperative
4 corporation or association, the taxable income of such
5 organization determined in accordance with the
6 provisions of Section 1381 through 1388 of the Internal
7 Revenue Code;

8 (G) Subchapter S corporations. In the case of: (i)
9 a Subchapter S corporation for which there is in effect
10 an election for the taxable year under Section 1362 of
11 the Internal Revenue Code, the taxable income of such
12 corporation determined in accordance with Section
13 1363(b) of the Internal Revenue Code, except that
14 taxable income shall take into account those items
15 which are required by Section 1363(b)(1) of the
16 Internal Revenue Code to be separately stated; and (ii)
17 a Subchapter S corporation for which there is in effect
18 a federal election to opt out of the provisions of the
19 Subchapter S Revision Act of 1982 and have applied
20 instead the prior federal Subchapter S rules as in
21 effect on July 1, 1982, the taxable income of such
22 corporation determined in accordance with the federal
23 Subchapter S rules as in effect on July 1, 1982; and

24 (H) Partnerships. In the case of a partnership,
25 taxable income determined in accordance with Section
26 703 of the Internal Revenue Code, except that taxable
27 income shall take into account those items which are
28 required by Section 703(a)(1) to be separately stated
29 but which would be taken into account by an individual
30 in calculating his taxable income.

31 (3) Recapture of business expenses on disposition of
32 asset or business. Notwithstanding any other law to the
33 contrary, if in prior years income from an asset or
34 business has been classified as business income and in a

1 later year is demonstrated to be non-business income, then
2 all expenses, without limitation, deducted in such later
3 year and in the 2 immediately preceding taxable years
4 related to that asset or business that generated the
5 non-business income shall be added back and recaptured as
6 business income in the year of the disposition of the asset
7 or business. Such amount shall be apportioned to Illinois
8 using the greater of the apportionment fraction computed
9 for the business under Section 304 of this Act for the
10 taxable year or the average of the apportionment fractions
11 computed for the business under Section 304 of this Act for
12 the taxable year and for the 2 immediately preceding
13 taxable years.

14 (f) Valuation limitation amount.

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

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

23 (B) The lesser of (i) the sum of the pre-August 1,
24 1969 appreciation amounts (to the extent consisting of
25 capital gain) for all property in respect of which such
26 gain was reported for federal income tax purposes for
27 the taxable year, or (ii) the net capital gain for the
28 taxable year, reduced in either case by any amount of
29 such gain included in the amount determined under
30 subsection (a) (2) (F) or (c) (2) (H).

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

32 (A) If the fair market value of property referred
33 to in paragraph (1) was readily ascertainable on August
34 1, 1969, the pre-August 1, 1969 appreciation amount for

1 such property is the lesser of (i) the excess of such
2 fair market value over the taxpayer's basis (for
3 determining gain) for such property on that date
4 (determined under the Internal Revenue Code as in
5 effect on that date), or (ii) the total gain realized
6 and reportable for federal income tax purposes in
7 respect of the sale, exchange or other disposition of
8 such property.

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

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

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

26 (h) Legislative intention. Except as expressly provided by
27 this Section there shall be no modifications or limitations on
28 the amounts of income, gain, loss or deduction taken into
29 account in determining gross income, adjusted gross income or
30 taxable income for federal income tax purposes for the taxable
31 year, or in the amount of such items entering into the
32 computation of base income and net income under this Act for

1 such taxable year, whether in respect of property values as of
2 August 1, 1969 or otherwise.

3 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
4 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
5 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
6 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law."