



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB1143

Introduced 02/08/05, by Rep. Keith P. Sommer

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Allows an income tax deduction for individuals in an amount equal to 50% the aggregate cash donations made to a qualified charitable entity during the taxable year, but not to exceed \$2,000 per year. Defines "qualified charitable entity". Effective immediately.

LRB094 08793 BDD 39009 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

35 (D-18) For taxable years ending on or after
36 December 31, 2004, an amount equal to the amount of

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

20 (G) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (DD) An amount equal to the interest income taken
28 into account for the taxable year (net of the
29 deductions allocable thereto) with respect to
30 transactions with a foreign person who would be a
31 member of the taxpayer's unitary business group but for
32 the fact that the foreign person's business activity
33 outside the United States is 80% or more of that
34 person's total business activity, but not to exceed the
35 addition modification required to be made for the same
36 taxable year under Section 203(a)(2)(D-17) for

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

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

16 (FF) An amount, to the extent included in adjusted
17 gross income, equal to 50% the aggregate cash donations
18 made to a qualified charitable entity during the
19 taxable year, but not to exceed \$2,000 per year. For
20 purposes of this subparagraph, a "qualified charitable
21 entity" is a charitable entity that is (i) located in
22 the State of Illinois and (ii) qualifies for exemption
23 from federal income taxation under Section 501(c)(3)
24 of the Internal Revenue Code.

25 (b) Corporations.

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

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

32 (A) An amount equal to all amounts paid or accrued
33 to the taxpayer as interest and all distributions
34 received from regulated investment companies during
35 the taxable year to the extent excluded from gross

1 income in the computation of taxable income;

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

5 (C) In the case of a regulated investment company,
6 an amount equal to the excess of (i) the net long-term
7 capital gain for the taxable year, over (ii) the amount
8 of the capital gain dividends designated as such in
9 accordance with Section 852(b)(3)(C) of the Internal
10 Revenue Code and any amount designated under Section
11 852(b)(3)(D) of the Internal Revenue Code,
12 attributable to the taxable year (this amendatory Act
13 of 1995 (Public Act 89-89) is declarative of existing
14 law and is not a new enactment);

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

19 (E) For taxable years in which a net operating loss
20 carryback or carryforward from a taxable year ending
21 prior to December 31, 1986 is an element of taxable
22 income under paragraph (1) of subsection (e) or
23 subparagraph (E) of paragraph (2) of subsection (e),
24 the amount by which addition modifications other than
25 those provided by this subparagraph (E) exceeded
26 subtraction modifications in such earlier taxable
27 year, with the following limitations applied in the
28 order that they are listed:

29 (i) the addition modification relating to the
30 net operating loss carried back or forward to the
31 taxable year from any taxable year ending prior to
32 December 31, 1986 shall be reduced by the amount of
33 addition modification under this subparagraph (E)
34 which related to that net operating loss and which
35 was taken into account in calculating the base
36 income of an earlier taxable year, and

1 (ii) the addition modification relating to the
2 net operating loss carried back or forward to the
3 taxable year from any taxable year ending prior to
4 December 31, 1986 shall not exceed the amount of
5 such carryback or carryforward;

6 For taxable years in which there is a net operating
7 loss carryback or carryforward from more than one other
8 taxable year ending prior to December 31, 1986, the
9 addition modification provided in this subparagraph
10 (E) shall be the sum of the amounts computed
11 independently under the preceding provisions of this
12 subparagraph (E) for each such taxable year;

13 (E-5) For taxable years ending after December 31,
14 1997, an amount equal to any eligible remediation costs
15 that the corporation deducted in computing adjusted
16 gross income and for which the corporation claims a
17 credit under subsection (l) of Section 201;

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

24 (E-11) If the taxpayer reports a capital gain or
25 loss on the taxpayer's federal income tax return for
26 the taxable year based on a sale or transfer of
27 property for which the taxpayer was required in any
28 taxable year to make an addition modification under
29 subparagraph (E-10), then an amount equal to the
30 aggregate amount of the deductions taken in all taxable
31 years under subparagraph (T) with respect to that
32 property.

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

36 (E-12) For taxable years ending on or after

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

20 This paragraph shall not apply to the following:

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

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

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

36 (b) the transaction giving rise to the

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

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

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

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

30 (E-13) For taxable years ending on or after
31 December 31, 2004, an amount equal to the amount of
32 intangible expenses and costs otherwise allowed as a
33 deduction in computing base income, and that were paid,
34 accrued, or incurred, directly or indirectly, to a
35 foreign person who would be a member of the same
36 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(b)(2)(E-12) of
18 this Act. As used in this subparagraph, the term
19 "intangible expenses and costs" includes (1) expenses,
20 losses, and costs for, or related to, the direct or
21 indirect acquisition, use, maintenance or management,
22 ownership, sale, exchange, or any other disposition of
23 intangible property; (2) losses incurred, directly or
24 indirectly, from factoring transactions or discounting
25 transactions; (3) royalty, patent, technical, and
26 copyright fees; (4) licensing fees; and (5) other
27 similar expenses and costs. For purposes of this
28 subparagraph, "intangible property" includes patents,
29 patent applications, trade names, trademarks, service
30 marks, copyrights, mask works, trade secrets, and
31 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
35 indirectly, from a transaction with a foreign
36 person who is subject in a foreign country or

1 state, other than a state which requires mandatory
2 unitary reporting, to a tax on or measured by net
3 income with respect to such item; or

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

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

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

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

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

1 under Section 404 of this Act;
2 and by deducting from the total so obtained the sum of the
3 following amounts:

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

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

9 (H) In the case of a regulated investment company,
10 an amount equal to the amount of exempt interest
11 dividends as defined in subsection (b) (5) of Section
12 852 of the Internal Revenue Code, paid to shareholders
13 for the taxable year;

14 (I) With the exception of any amounts subtracted
15 under subparagraph (J), an amount equal to the sum of
16 all amounts disallowed as deductions by (i) Sections
17 171(a) (2), and 265(a) (2) and amounts disallowed as
18 interest expense by Section 291(a) (3) of the Internal
19 Revenue Code, as now or hereafter amended, and all
20 amounts of expenses allocable to interest and
21 disallowed as deductions by Section 265(a) (1) of the
22 Internal Revenue Code, as now or hereafter amended; and
23 (ii) for taxable years ending on or after August 13,
24 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and
25 832(b) (5) (B) (i) of the Internal Revenue Code; the
26 provisions of this subparagraph are exempt from the
27 provisions of Section 250;

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

1 (K) An amount equal to those dividends included in
2 such total which were paid by a corporation which
3 conducts business operations in an Enterprise Zone or
4 zones created under the Illinois Enterprise Zone Act
5 and conducts substantially all of its operations in an
6 Enterprise Zone or zones;

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

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

36 (M-1) For any taxpayer that is a financial

1 organization within the meaning of Section 304(c) of
2 this Act, an amount included in such total as interest
3 income from a loan or loans made by such taxpayer to a
4 borrower, to the extent that such a loan is secured by
5 property which is eligible for the High Impact Business
6 Investment Credit. To determine the portion of a loan
7 or loans that is secured by property eligible for a
8 Section 201(h) investment credit to the borrower, the
9 entire principal amount of the loan or loans between
10 the taxpayer and the borrower should be divided into
11 the basis of the Section 201(h) investment credit
12 property which secures the loan or loans, using for
13 this purpose the original basis of such property on the
14 date that it was placed in service in a federally
15 designated Foreign Trade Zone or Sub-Zone located in
16 Illinois. No taxpayer that is eligible for the
17 deduction provided in subparagraph (M) of paragraph
18 (2) of this subsection shall be eligible for the
19 deduction provided under this subparagraph (M-1). The
20 subtraction modification available to taxpayers in any
21 year under this subsection shall be that portion of the
22 total interest paid by the borrower with respect to
23 such loan attributable to the eligible property as
24 calculated under the previous sentence;

25 (N) Two times any contribution made during the
26 taxable year to a designated zone organization to the
27 extent that the contribution (i) qualifies as a
28 charitable contribution under subsection (c) of
29 Section 170 of the Internal Revenue Code and (ii) must,
30 by its terms, be used for a project approved by the
31 Department of Commerce and Economic Opportunity under
32 Section 11 of the Illinois Enterprise Zone Act;

33 (O) An amount equal to: (i) 85% for taxable years
34 ending on or before December 31, 1992, or, a percentage
35 equal to the percentage allowable under Section
36 243(a)(1) of the Internal Revenue Code of 1986 for

1 taxable years ending after December 31, 1992, of the
2 amount by which dividends included in taxable income
3 and received from a corporation that is not created or
4 organized under the laws of the United States or any
5 state or political subdivision thereof, including, for
6 taxable years ending on or after December 31, 1988,
7 dividends received or deemed received or paid or deemed
8 paid under Sections 951 through 964 of the Internal
9 Revenue Code, exceed the amount of the modification
10 provided under subparagraph (G) of paragraph (2) of
11 this subsection (b) which is related to such dividends;
12 plus (ii) 100% of the amount by which dividends,
13 included in taxable income and received, including,
14 for taxable years ending on or after December 31, 1988,
15 dividends received or deemed received or paid or deemed
16 paid under Sections 951 through 964 of the Internal
17 Revenue Code, from any such corporation specified in
18 clause (i) that would but for the provisions of Section
19 1504 (b) (3) of the Internal Revenue Code be treated as
20 a member of the affiliated group which includes the
21 dividend recipient, exceed the amount of the
22 modification provided under subparagraph (G) of
23 paragraph (2) of this subsection (b) which is related
24 to such dividends;

25 (P) An amount equal to any contribution made to a
26 job training project established pursuant to the Tax
27 Increment Allocation Redevelopment Act;

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

33 (R) In the case of an attorney-in-fact with respect
34 to whom an interinsurer or a reciprocal insurer has
35 made the election under Section 835 of the Internal
36 Revenue Code, 26 U.S.C. 835, an amount equal to the

1 excess, if any, of the amounts paid or incurred by that
2 interinsurer or reciprocal insurer in the taxable year
3 to the attorney-in-fact over the deduction allowed to
4 that interinsurer or reciprocal insurer with respect
5 to the attorney-in-fact under Section 835(b) of the
6 Internal Revenue Code for the taxable year;

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

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

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

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

34 The aggregate amount deducted under this
35 subparagraph in all taxable years for any one piece of
36 property may not exceed the amount of the bonus

1 depreciation deduction (30% of the adjusted basis of
2 the qualified property) taken on that property on the
3 taxpayer's federal income tax return under subsection
4 (k) of Section 168 of the Internal Revenue Code;

5 (U) If the taxpayer 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 (E-10), then an amount equal to that addition
11 modification.

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

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

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

1 outside the United States is 80% or more of that
2 person's total business activity, but not to exceed the
3 addition modification required to be made for the same
4 taxable year under Section 203(b)(2)(E-12) for
5 interest paid, accrued, or incurred, directly or
6 indirectly, to the same foreign person; and

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

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

24 (c) Trusts and estates.

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

28 (2) Modifications. Subject to the provisions of
29 paragraph (3), the taxable income referred to in paragraph
30 (1) shall be modified by adding thereto the sum of the
31 following amounts:

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

1 (B) In the case of (i) an estate, \$600; (ii) a
2 trust which, under its governing instrument, is
3 required to distribute all of its income currently,
4 \$300; and (iii) any other trust, \$100, but in each such
5 case, only to the extent such amount was deducted in
6 the computation of taxable income;

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

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

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

24 (i) the addition modification relating to the
25 net operating loss carried back or forward to the
26 taxable year from any taxable year ending prior to
27 December 31, 1986 shall be reduced by the amount of
28 addition modification under this subparagraph (E)
29 which related to that net operating loss and which
30 was taken into account in calculating the base
31 income of an earlier taxable year, and

32 (ii) the addition modification relating to the
33 net operating loss carried back or forward to the
34 taxable year from any taxable year ending prior to
35 December 31, 1986 shall not exceed the amount of
36 such carryback or carryforward;

1 For taxable years in which there is a net operating
2 loss carryback or carryforward from more than one other
3 taxable year ending prior to December 31, 1986, the
4 addition modification provided in this subparagraph
5 (E) shall be the sum of the amounts computed
6 independently under the preceding provisions of this
7 subparagraph (E) for each such taxable year;

8 (F) For taxable years ending on or after January 1,
9 1989, an amount equal to the tax deducted pursuant to
10 Section 164 of the Internal Revenue Code if the trust
11 or estate is claiming the same tax for purposes of the
12 Illinois foreign tax credit under Section 601 of this
13 Act;

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

18 (G-5) For taxable years ending after December 31,
19 1997, an amount equal to any eligible remediation costs
20 that the trust or estate deducted in computing adjusted
21 gross income and for which the trust or estate claims a
22 credit under subsection (l) of Section 201;

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

29 (G-11) If the taxpayer reports a capital gain or
30 loss on the taxpayer's federal income tax return for
31 the taxable year based on a sale or transfer of
32 property for which the taxpayer was required in any
33 taxable year to make an addition modification under
34 subparagraph (G-10), then an amount equal to the
35 aggregate amount of the deductions taken in all taxable
36 years under subparagraph (R) with respect to that

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

35 (G-13) For taxable years ending on or after
36 December 31, 2004, an amount equal to the amount of

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

20 (I) The valuation limitation amount;

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

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

35 (L) With the exception of any amounts subtracted
36 under subparagraph (K), an amount equal to the sum of

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

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

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

21 (O) 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 (M) of paragraph (2) of this subsection
28 shall not be eligible for the deduction provided under
29 this subparagraph (O);

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

35 (Q) For taxable year 1999 and thereafter, an amount
36 equal to the amount of any (i) distributions, to the

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

32 (R) For taxable years 2001 and thereafter, for the
33 taxable year in which the bonus depreciation deduction
34 (30% of the adjusted basis of the qualified property)
35 is taken on the taxpayer's federal income tax return
36 under subsection (k) of Section 168 of the Internal

1 Revenue Code and for each applicable taxable year
2 thereafter, an amount equal to "x", where:

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

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

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

20 (S) If the taxpayer reports a capital gain or loss
21 on 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 (G-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 (T) 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
35 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
36 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed

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

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

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

35 (3) Limitation. The amount of any modification
36 otherwise required under this subsection shall, under

1 regulations prescribed by the Department, be adjusted by
2 any amounts included therein which were properly paid,
3 credited, or required to be distributed, or permanently set
4 aside for charitable purposes pursuant to Internal Revenue
5 Code Section 642(c) during the taxable year.

6 (d) Partnerships.

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

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

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

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

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

23 (D) An amount equal to the amount of the capital
24 gain deduction allowable under the Internal Revenue
25 Code, to the extent deducted from gross income in the
26 computation of taxable income;

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

33 (D-6) If the taxpayer reports a capital gain or
34 loss on the taxpayer's federal income tax return for
35 the taxable year based on a sale or transfer of

1 property for which the taxpayer was required in any
2 taxable year to make an addition modification under
3 subparagraph (D-5), then an amount equal to the
4 aggregate amount of the deductions taken in all taxable
5 years under subparagraph (O) with respect to that
6 property.

7 The taxpayer is required to make the addition
8 modification under this subparagraph only once with
9 respect to any one piece of property;

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

29 This paragraph shall not apply to the following:

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

36 (ii) an item of interest paid, accrued, or

1 incurred, directly or indirectly, to a foreign
2 person if the taxpayer can establish, based on a
3 preponderance of the evidence, both of the
4 following:

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

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

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

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

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

1 by which the Department will utilize its authority
2 under Section 404 of this Act; and

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

1 property" includes patents, patent applications, trade
2 names, trademarks, service marks, copyrights, mask
3 works, trade secrets, and similar types of intangible
4 assets;

5 This paragraph shall not apply to the following:

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

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

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

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

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

1 304(f);

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

11 and by deducting from the total so obtained the following
12 amounts:

13 (E) The valuation limitation amount;

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

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

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

33 (I) An amount equal to all amounts of income
34 distributable to an entity subject to the Personal
35 Property Tax Replacement Income Tax imposed by
36 subsections (c) and (d) of Section 201 of this Act

1 including amounts distributable to organizations
2 exempt from federal income tax by reason of Section
3 501(a) of the Internal Revenue Code;

4 (J) With the exception of any amounts subtracted
5 under subparagraph (G), an amount equal to the sum of
6 all amounts disallowed as deductions by (i) Sections
7 171(a) (2), and 265(2) of the Internal Revenue Code of
8 1954, as now or hereafter amended, and all amounts of
9 expenses allocable to interest and disallowed as
10 deductions by Section 265(1) of the Internal Revenue
11 Code, as now or hereafter amended; and (ii) for taxable
12 years ending on or after August 13, 1999, Sections
13 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
14 Internal Revenue Code; the provisions of this
15 subparagraph are exempt from the provisions of Section
16 250;

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

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

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

36 (N) An amount equal to the amount of the deduction

1 used to compute the federal income tax credit for
2 restoration of substantial amounts held under claim of
3 right for the taxable year pursuant to Section 1341 of
4 the Internal Revenue Code of 1986;

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

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

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

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

29 (P) If the taxpayer reports a capital gain or loss
30 on the taxpayer's federal income tax return for the
31 taxable year based on a sale or transfer of property
32 for which the taxpayer was required in any taxable year
33 to make an addition modification under subparagraph
34 (D-5), then an amount equal to that addition
35 modification.

36 The taxpayer is allowed to take the deduction under

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

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

19 (R) An amount equal to the interest income taken
20 into account for the taxable year (net of the
21 deductions allocable thereto) with respect to
22 transactions with a foreign person who would be a
23 member of the taxpayer's unitary business group but for
24 the fact that the foreign person's business activity
25 outside the United States is 80% or more of that
26 person's total business activity, but not to exceed the
27 addition modification required to be made for the same
28 taxable year under Section 203(d)(2)(D-7) for interest
29 paid, accrued, or incurred, directly or indirectly, to
30 the same foreign person; and

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

1 outside the United States is 80% or more of that
2 person's total business activity, but not to exceed the
3 addition modification required to be made for the same
4 taxable year under Section 203(d)(2)(D-8) for
5 intangible expenses and costs paid, accrued, or
6 incurred, directly or indirectly, to the same foreign
7 person.

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

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

1 taxable income less than zero (net operating loss) is
2 applied under Section 172 of the Internal Revenue Code or
3 under subparagraph (E) of paragraph (2) of this subsection
4 (e) applied in conjunction with Section 172 of the Internal
5 Revenue Code.

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

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

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

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

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

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

1 taxable income shall be determined as if the election
2 provided by Section 243(b) (2) of the Internal Revenue
3 Code had been in effect for all such years;

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

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

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

32 (3) Recapture of business expenses on disposition of
33 asset or business. Notwithstanding any other law to the
34 contrary, if in prior years income from an asset or
35 business has been classified as business income and in a
36 later year is demonstrated to be non-business income, then

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

13 (f) Valuation limitation amount.

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

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

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

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

31 (A) If the fair market value of property referred
32 to in paragraph (1) was readily ascertainable on August
33 1, 1969, the pre-August 1, 1969 appreciation amount for
34 such property is the lesser of (i) the excess of such
35 fair market value over the taxpayer's basis (for
36 determining gain) for such property on that date

1 (determined under the Internal Revenue Code as in
2 effect on that date), or (ii) the total gain realized
3 and reportable for federal income tax purposes in
4 respect of the sale, exchange or other disposition of
5 such property.

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

17 (C) The Department shall prescribe such
18 regulations as may be necessary to carry out the
19 purposes of this paragraph.

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

23 (h) Legislative intention. Except as expressly provided by
24 this Section there shall be no modifications or limitations on
25 the amounts of income, gain, loss or deduction taken into
26 account in determining gross income, adjusted gross income or
27 taxable income for federal income tax purposes for the taxable
28 year, or in the amount of such items entering into the
29 computation of base income and net income under this Act for
30 such taxable year, whether in respect of property values as of
31 August 1, 1969 or otherwise.

32 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
33 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
34 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.

1 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.