

**HB2579**



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB2579**

Introduced 02/18/05, by Rep. Carolyn H. Krause

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Provides income tax deductions for contributions to and interest on a health savings account, established under the Medicare Prescription Drug, Improvement and Modernization Act of 2003. Effective immediately.

LRB094 10011 BDD 40269 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 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 and, beginning in taxable  
20 year 2005, to a health savings account, as defined in  
21 the Medicare Prescription Drug, Improvement and  
22 Modernization Act of 2003, to the extent the  
23 contribution is accepted by the account administrator  
24 as provided in that Act;

25 (T) An amount, to the extent included in adjusted  
26 gross income, equal to the amount of interest earned in  
27 the taxable year on a medical care savings account  
28 established under the Medical Care Savings Account Act  
29 or the Medical Care Savings Account Act of 2000 and,  
30 beginning in taxable year 2005, on a health savings  
31 account, established under the Medicare Prescription  
32 Drug, Improvement and Modernization Act of 2003 on  
33 behalf of the taxpayer, other than interest added  
34 pursuant to item (D-5) of this paragraph (2);

35 (U) For one taxable year beginning on or after  
36 January 1, 1994, an amount equal to the total amount of

1 tax imposed and paid under subsections (a) and (b) of  
2 Section 201 of this Act on grant amounts received by  
3 the taxpayer under the Nursing Home Grant Assistance  
4 Act during the taxpayer's taxable years 1992 and 1993;

5 (V) Beginning with tax years ending on or after  
6 December 31, 1995 and ending with tax years ending on  
7 or before December 31, 2004, an amount equal to the  
8 amount paid by a taxpayer who is a self-employed  
9 taxpayer, a partner of a partnership, or a shareholder  
10 in a Subchapter S corporation for health insurance or  
11 long-term care insurance for that taxpayer or that  
12 taxpayer's spouse or dependents, to the extent that the  
13 amount paid for that health insurance or long-term care  
14 insurance may be deducted under Section 213 of the  
15 Internal Revenue Code of 1986, has not been deducted on  
16 the federal income tax return of the taxpayer, and does  
17 not exceed the taxable income attributable to that  
18 taxpayer's income, self-employment income, or  
19 Subchapter S corporation income; except that no  
20 deduction shall be allowed under this item (V) if the  
21 taxpayer is eligible to participate in any health  
22 insurance or long-term care insurance plan of an  
23 employer of the taxpayer or the taxpayer's spouse. The  
24 amount of the health insurance and long-term care  
25 insurance subtracted under this item (V) shall be  
26 determined by multiplying total health insurance and  
27 long-term care insurance premiums paid by the taxpayer  
28 times a number that represents the fractional  
29 percentage of eligible medical expenses under Section  
30 213 of the Internal Revenue Code of 1986 not actually  
31 deducted on the taxpayer's federal income tax return;

32 (W) For taxable years beginning on or after January  
33 1, 1998, all amounts included in the taxpayer's federal  
34 gross income in the taxable year from amounts converted  
35 from a regular IRA to a Roth IRA. This paragraph is  
36 exempt from the provisions of Section 250;

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

34 (Y) For taxable years beginning on or after January  
35 1, 2002 and ending on or before December 31, 2004,  
36 moneys contributed in the taxable year to a College

1 Savings Pool account under Section 16.5 of the State  
2 Treasurer Act, except that amounts excluded from gross  
3 income under Section 529(c)(3)(C)(i) of the Internal  
4 Revenue Code shall not be considered moneys  
5 contributed under this subparagraph (Y). For taxable  
6 years beginning on or after January 1, 2005, a maximum  
7 of \$10,000 contributed in the taxable year to (i) a  
8 College Savings Pool account under Section 16.5 of the  
9 State Treasurer Act or (ii) the Illinois Prepaid  
10 Tuition Trust Fund, except that amounts excluded from  
11 gross income under Section 529(c)(3)(C)(i) of the  
12 Internal Revenue Code shall not be considered moneys  
13 contributed under this subparagraph (Y). This  
14 subparagraph (Y) is exempt from the provisions of  
15 Section 250;

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

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

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

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

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

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

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

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

17 (CC) The amount of (i) any interest income (net of  
18 the deductions allocable thereto) taken into account  
19 for the taxable year with respect to a transaction with  
20 a taxpayer that is required to make an addition  
21 modification with respect to such transaction under  
22 Section 203(a)(2)(D-17), 203(b)(2)(E-13),  
23 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
24 the amount of that addition modification, and (ii) any  
25 income from intangible property (net of the deductions  
26 allocable thereto) taken into account for the taxable  
27 year with respect to a transaction with a taxpayer that  
28 is required to make an addition modification with  
29 respect to such transaction under Section  
30 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or  
31 203(d)(2)(D-8), but not to exceed the amount of that  
32 addition modification;

33 (DD) An amount equal to the interest income taken  
34 into account for the taxable year (net of the  
35 deductions allocable thereto) with respect to  
36 transactions with a foreign person who would be a

1 member of the taxpayer's unitary business group but for  
2 the fact that the foreign person's business activity  
3 outside the United States is 80% or more of that  
4 person's total business activity, but not to exceed the  
5 addition modification required to be made for the same  
6 taxable year under Section 203(a)(2)(D-17) for  
7 interest paid, accrued, or incurred, directly or  
8 indirectly, to the same foreign person; and

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

22 (b) Corporations.

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

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

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

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



1 the computation of taxable income for the taxable year;

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

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

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

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

34 (ii) the addition modification relating to the  
35 net operating loss carried back or forward to the  
36 taxable year from any taxable year ending prior to

1 December 31, 1986 shall not exceed the amount of  
2 such carryback or carryforward;

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

10 (E-5) For taxable years ending after December 31,  
11 1997, an amount equal to any eligible remediation costs  
12 that the corporation deducted in computing adjusted  
13 gross income and for which the corporation claims a  
14 credit under subsection (l) of Section 201;

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

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

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

33 (E-12) For taxable years ending on or after  
34 December 31, 2004, an amount equal to the amount  
35 otherwise allowed as a deduction in computing base  
36 income for interest paid, accrued, or incurred,

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

17 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

1 zones created under the Illinois Enterprise Zone Act  
2 and conducts substantially all of its operations in an  
3 Enterprise Zone or zones;

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

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

33 (M-1) For any taxpayer that is a financial  
34 organization within the meaning of Section 304(c) of  
35 this Act, an amount included in such total as interest  
36 income from a loan or loans made by such taxpayer to a



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

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

30 (O) An amount equal to: (i) 85% for taxable years  
31 ending on or before December 31, 1992, or, a percentage  
32 equal to the percentage allowable under Section  
33 243(a)(1) of the Internal Revenue Code of 1986 for  
34 taxable years ending after December 31, 1992, of the  
35 amount by which dividends included in taxable income  
36 and received from a corporation that is not created or

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

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

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

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

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

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

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

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

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

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

1 (k) of Section 168 of the Internal Revenue Code;

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

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

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

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

1 taxable year under Section 203(b)(2)(E-12) for  
2 interest paid, accrued, or incurred, directly or  
3 indirectly, to the same foreign person; and

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

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

21 (c) Trusts and estates.

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

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

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

33 (B) In the case of (i) an estate, \$600; (ii) a  
34 trust which, under its governing instrument, is  
35 required to distribute all of its income currently,

1           \$300; and (iii) any other trust, \$100, but in each such  
2 case, only to the extent such amount was deducted in  
3 the computation of taxable income;

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

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

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

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

29           (ii) 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 not exceed the amount of  
33 such carryback or carryforward;

34           For taxable years in which there is a net operating  
35 loss carryback or carryforward from more than one other  
36 taxable year ending prior to December 31, 1986, the

1 addition modification provided in this subparagraph  
2 (E) shall be the sum of the amounts computed  
3 independently under the preceding provisions of this  
4 subparagraph (E) for each such taxable year;

5 (F) For taxable years ending on or after January 1,  
6 1989, an amount equal to the tax deducted pursuant to  
7 Section 164 of the Internal Revenue Code if the trust  
8 or estate is claiming the same tax for purposes of the  
9 Illinois foreign tax credit under Section 601 of this  
10 Act;

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

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

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

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

35 The taxpayer is required to make the addition  
36 modification under this subparagraph only once with

1 respect to any one piece of property;

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

22 This paragraph shall not apply to the following:

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

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

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



1 member, and

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

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

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

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

32 (G-13) For taxable years ending on or after  
33 December 31, 2004, an amount equal to the amount of  
34 intangible expenses and costs otherwise allowed as a  
35 deduction in computing base income, and that were paid,  
36 accrued, or incurred, directly or indirectly, to a

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

34 This paragraph shall not apply to the following:

35 (i) any item of intangible expenses or costs  
36 paid, accrued, or incurred, directly or

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

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

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

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

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

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

1           and such regulations provide methods and standards  
2           by which the Department will utilize its authority  
3           under Section 404 of this Act;

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

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

17          (I) The valuation limitation amount;

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

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

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

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

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

15 (N) An amount equal to any contribution made to a  
16 job training project established pursuant to the Tax  
17 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (U) An amount equal to the interest income taken  
8 into account for the taxable year (net of the  
9 deductions allocable thereto) with respect to  
10 transactions with a foreign person who would be a  
11 member of the taxpayer's unitary business group but for  
12 the fact 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(c)(2)(G-12) for  
17 interest paid, accrued, or incurred, directly or  
18 indirectly, to the same foreign person; and

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

32 (3) Limitation. The amount of any modification  
33 otherwise required under this subsection shall, under  
34 regulations prescribed by the Department, be adjusted by  
35 any amounts included therein which were properly paid,  
36 credited, or required to be distributed, or permanently set



1           aside for charitable purposes pursuant to Internal Revenue  
2           Code Section 642(c) during the taxable year.

3           (d) Partnerships.

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

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

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

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

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

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

24                     (D-5) 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-6) 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-5), then an amount equal to the

1 aggregate amount of the deductions taken in all taxable  
2 years under subparagraph (O) with respect to that  
3 property.

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

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

26 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

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

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

36 (D-8) For taxable years ending on or after December

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

1 assets;

2 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) any item of intangible expense or cost  
27 paid, accrued, or incurred, directly or  
28 indirectly, from a transaction with a foreign  
29 person if the taxpayer establishes by clear and  
30 convincing evidence, that the adjustments are  
31 unreasonable; or if the taxpayer and the Director  
32 agree in writing to the application or use of an  
33 alternative method of apportionment under Section  
34 304(f);

35 Nothing in this subsection shall preclude the  
36 Director from making any other adjustment

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

8 and by deducting from the total so obtained the following  
9 amounts:

10 (E) The valuation limitation amount;

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

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

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

30 (I) An amount equal to all amounts of income  
31 distributable to an entity subject to the Personal  
32 Property Tax Replacement Income Tax imposed by  
33 subsections (c) and (d) of Section 201 of this Act  
34 including amounts distributable to organizations  
35 exempt from federal income tax by reason of Section  
36 501(a) of the Internal Revenue Code;

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

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

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

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

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

1 the Internal Revenue Code of 1986;

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

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

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

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

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

33 The taxpayer is allowed to take the deduction under  
34 this subparagraph only once with respect to any one  
35 piece of property;

36 (Q) The amount of (i) any interest income (net of



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

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

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

1 taxable year under Section 203(d)(2)(D-8) for  
2 intangible expenses and costs paid, accrued, or  
3 incurred, directly or indirectly, to the same foreign  
4 person.

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

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

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

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

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

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

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

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

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

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

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

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

29 (3) Recapture of business expenses on disposition of  
30 asset or business. Notwithstanding any other law to the  
31 contrary, if in prior years income from an asset or  
32 business has been classified as business income and in a  
33 later year is demonstrated to be non-business income, then  
34 all expenses, without limitation, deducted in such later  
35 year and in the 2 immediately preceding taxable years  
36 related to that asset or business that generated the

1 non-business income shall be added back and recaptured as  
2 business income in the year of the disposition of the asset  
3 or business. Such amount shall be apportioned to Illinois  
4 using the greater of the apportionment fraction computed  
5 for the business under Section 304 of this Act for the  
6 taxable year or the average of the apportionment fractions  
7 computed for the business under Section 304 of this Act for  
8 the taxable year and for the 2 immediately preceding  
9 taxable years.

10 (f) Valuation limitation amount.

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

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

19 (B) The lesser of (i) the sum of the pre-August 1,  
20 1969 appreciation amounts (to the extent consisting of  
21 capital gain) for all property in respect of which such  
22 gain was reported for federal income tax purposes for  
23 the taxable year, or (ii) the net capital gain for the  
24 taxable year, reduced in either case by any amount of  
25 such gain included in the amount determined under  
26 subsection (a) (2) (F) or (c) (2) (H).

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

28 (A) If the fair market value of property referred  
29 to in paragraph (1) was readily ascertainable on August  
30 1, 1969, the pre-August 1, 1969 appreciation amount for  
31 such property is the lesser of (i) the excess of such  
32 fair market value over the taxpayer's basis (for  
33 determining gain) for such property on that date  
34 (determined under the Internal Revenue Code as in  
35 effect on that date), or (ii) the total gain realized  
36 and reportable for federal income tax purposes in

1           respect of the sale, exchange or other disposition of  
2           such property.

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

14          (C) The Department shall prescribe such  
15          regulations as may be necessary to carry out the  
16          purposes of this paragraph.

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

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

29          (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,  
30          eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;  
31          92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.  
32          7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

33          Section 99. Effective date. This Act takes effect upon

1 becoming law.