



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3768

Introduced 2/25/2005, by Rep. Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Allows a deduction from federal adjusted gross income, in arriving at base income for Illinois income tax purposes, of an amount equal to earnings in a special needs trust, to the extent included in adjusted gross income. Defines "special needs trust" as a trust that is not liable to pay or reimburse the State or any public agency for financial aid or services to the individual, as provided in the Trusts and Trustees Act. Effective immediately.

LRB094 06753 BDD 36855 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning taxes.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

20 (G) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (FF) For taxable years ending on or after December
17 31, 2005, an amount equal to the earnings on a special
18 needs trust, to the extent included in adjusted gross
19 income. As used in this subparagraph, "special needs
20 trust" means a trust that is not liable to pay or
21 reimburse the State or any public agency for financial
22 aid or services to the individual, as provided in
23 Section 15.1 of the Trusts and Trustees Act.

24 (b) Corporations.

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

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

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

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

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

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

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

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

36 (ii) the addition modification relating to the

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

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

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

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

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

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

35 (E-12) For taxable years ending on or after
36 December 31, 2004, an amount equal to the amount

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

19 This paragraph shall not apply to the following:

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

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

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

35 (b) the transaction giving rise to the
36 interest expense between the taxpayer and the

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

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

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

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

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

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

31 This paragraph shall not apply to the following:

32 (i) any item of intangible expenses or costs
33 paid, accrued, or incurred, directly or
34 indirectly, from a transaction with a foreign
35 person who is subject in a foreign country or
36 state, other than a state which requires mandatory

1 unitary reporting, to a tax on or measured by net
2 income with respect to such item; or

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

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

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

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

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

1 and by deducting from the total so obtained the sum of the
2 following amounts:

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

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

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

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

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

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

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

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

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

35 (M-1) For any taxpayer that is a financial
36 organization within the meaning of Section 304(c) of

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

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

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

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

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

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

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

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

16 (T) 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 (U) 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 (E-10), 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 (V) The amount of: (i) any interest income (net of
15 the deductions allocable thereto) taken into account
16 for the taxable year with respect to a transaction with
17 a taxpayer that is required to make an addition
18 modification with respect to such transaction under
19 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
20 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
21 the amount of such addition modification and (ii) any
22 income from intangible property (net of the deductions
23 allocable thereto) taken into account for the taxable
24 year with respect to a transaction with a taxpayer that
25 is required to make an addition modification with
26 respect to such transaction under Section
27 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
28 203(d)(2)(D-8), but not to exceed the amount of such
29 addition modification;

30 (W) An amount equal to the interest income taken
31 into account for the taxable year (net of the
32 deductions allocable thereto) with respect to
33 transactions with a foreign person who would be a
34 member of the taxpayer's unitary business group but for
35 the fact that the foreign person's business activity
36 outside the United States is 80% or more of that

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

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

19 (Y) For taxable years ending on or after December
20 31, 2005, an amount equal to the earnings on a special
21 needs trust, to the extent included in adjusted gross
22 income. As used in this subparagraph, "special needs
23 trust" means a trust that is not liable to pay or
24 reimburse the State or any public agency for financial
25 aid or services to the individual, as provided in
26 Section 15.1 of the Trusts and Trustees Act.

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

31 (c) Trusts and estates.

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

35 (2) Modifications. Subject to the provisions of

1 paragraph (3), the taxable income referred to in paragraph
2 (1) shall be modified by adding thereto the sum of the
3 following amounts:

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

8 (B) In the case of (i) an estate, \$600; (ii) a
9 trust which, under its governing instrument, is
10 required to distribute all of its income currently,
11 \$300; and (iii) any other trust, \$100, but in each such
12 case, only to the extent such amount was deducted in
13 the computation of taxable income;

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

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

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

31 (i) the addition modification relating to the
32 net operating loss carried back or forward to the
33 taxable year from any taxable year ending prior to
34 December 31, 1986 shall be reduced by the amount of
35 addition modification under this subparagraph (E)
36 which related to that net operating loss and which

1 was taken into account in calculating the base
2 income of an earlier taxable year, and

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

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

15 (F) For taxable years ending on or after January 1,
16 1989, an amount equal to the tax deducted pursuant to
17 Section 164 of the Internal Revenue Code if the trust
18 or estate is claiming the same tax for purposes of the
19 Illinois foreign tax credit under Section 601 of this
20 Act;

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

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

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

36 (G-11) If the taxpayer reports a capital gain or

1 loss on the taxpayer's federal income tax return for
2 the taxable year based on a sale or transfer of
3 property for which the taxpayer was required in any
4 taxable year to make an addition modification under
5 subparagraph (G-10), then an amount equal to the
6 aggregate amount of the deductions taken in all taxable
7 years under subparagraph (R) with respect to that
8 property.

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

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

32 This paragraph shall not apply to the following:

33 (i) an item of interest paid, accrued, or
34 incurred, directly or indirectly, to a foreign
35 person who is subject in a foreign country or
36 state, other than a state which requires mandatory

1 unitary reporting, to a tax on or measured by net
2 income with respect to such interest; or

3 (ii) an item of interest paid, accrued, or
4 incurred, directly or indirectly, to a foreign
5 person if the taxpayer can establish, based on a
6 preponderance of the evidence, both of the
7 following:

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

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

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

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

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

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

6 (G-13) For taxable years ending on or after
7 December 31, 2004, an amount equal to the amount of
8 intangible expenses and costs otherwise allowed as a
9 deduction in computing base income, and that were paid,
10 accrued, or incurred, directly or indirectly, to a
11 foreign person who would be a member of the same
12 unitary business group but for the fact that the
13 foreign person's business activity outside the United
14 States is 80% or more of that person's total business
15 activity. The addition modification required by this
16 subparagraph shall be reduced to the extent that
17 dividends were included in base income of the unitary
18 group for the same taxable year and received by the
19 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 intangible expenses and costs were directly or
26 indirectly paid, incurred, or accrued. The preceding
27 sentence shall not apply to the extent that the same
28 dividends caused a reduction to the addition
29 modification required under Section 203(c)(2)(G-12) of
30 this Act. As used in this subparagraph, the term
31 "intangible expenses and costs" includes: (1)
32 expenses, losses, and costs for or related to the
33 direct or indirect acquisition, use, maintenance or
34 management, ownership, sale, exchange, or any other
35 disposition of intangible property; (2) losses
36 incurred, directly or indirectly, from factoring

1 transactions or discounting transactions; (3) royalty,
2 patent, technical, and copyright fees; (4) licensing
3 fees; and (5) other similar expenses and costs. For
4 purposes of this subparagraph, "intangible property"
5 includes patents, patent applications, trade names,
6 trademarks, service marks, copyrights, mask works,
7 trade secrets, and similar types of intangible assets.

8 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

27 (I) The valuation limitation amount;

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

31 (K) An amount equal to all amounts included in
32 taxable income as modified by subparagraphs (A), (B),
33 (C), (D), (E), (F) and (G) which are exempt from
34 taxation by this State either by reason of its statutes
35 or Constitution or by reason of the Constitution,
36 treaties or statutes of the United States; provided

1 that, in the case of any statute of this State that
2 exempts income derived from bonds or other obligations
3 from the tax imposed under this Act, the amount
4 exempted shall be the interest net of bond premium
5 amortization;

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

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

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

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

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

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

1 purposes. This paragraph is exempt from the provisions
2 of Section 250;

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

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

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

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

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

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

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

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

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

1 addition modification required to be made for the same
2 taxable year under Section 203(c)(2)(G-13) for
3 intangible expenses and costs paid, accrued, or
4 incurred, directly or indirectly, to the same foreign
5 person; and -

6 (W) For taxable years ending on or after December
7 31, 2005, an amount equal to the earnings on a special
8 needs trust, to the extent included in adjusted gross
9 income. As used in this subparagraph, "special needs
10 trust" means a trust that is not liable to pay or
11 reimburse the State or any public agency for financial
12 aid or services to the individual, as provided in
13 Section 15.1 of the Trusts and Trustees Act.

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

21 (d) Partnerships.

22 (1) In general. In the case of a partnership, 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. The taxable income referred to in
26 paragraph (1) shall be modified by adding thereto the sum
27 of the following amounts:

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

32 (B) An amount equal to the amount of tax imposed by
33 this Act to the extent deducted from gross income for
34 the taxable year;

35 (C) The amount of deductions allowed to the

1 partnership pursuant to Section 707 (c) of the Internal
2 Revenue Code in calculating its taxable income;

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

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

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

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

25 (D-7) For taxable years ending on or after December
26 31, 2004, an amount equal to the amount otherwise
27 allowed as a deduction in computing base income for
28 interest paid, accrued, or incurred, directly or
29 indirectly, to a foreign person who would be a member
30 of the same unitary business group but for the fact the
31 foreign person's business activity outside the United
32 States is 80% or more of the foreign person's total
33 business activity. The addition modification required
34 by this subparagraph shall be reduced to the extent
35 that dividends were included in base income of the
36 unitary group for the same taxable year and received by

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

8 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

18 (D-8) For taxable years ending on or after December
19 31, 2004, an amount equal to the amount of intangible
20 expenses and costs otherwise allowed as a deduction in
21 computing base income, and that were paid, accrued, or
22 incurred, directly or indirectly, to a foreign person
23 who would be a member of the same unitary business
24 group but for the fact that the foreign person's
25 business activity outside the United States is 80% or
26 more of that person's total business activity. The
27 addition modification required by this subparagraph
28 shall be reduced to the extent that dividends were
29 included in base income of the unitary group for the
30 same taxable year and received by the taxpayer or by a
31 member of the taxpayer's unitary business group
32 (including amounts included in gross income pursuant
33 to Sections 951 through 964 of the Internal Revenue
34 Code and amounts included in gross income under Section
35 78 of the Internal Revenue Code) with respect to the
36 stock of the same person to whom the intangible

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

20 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

28 (E) The valuation limitation amount;

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

32 (G) An amount equal to all amounts included in
33 taxable income as modified by subparagraphs (A), (B),
34 (C) and (D) which are exempt from taxation by this
35 State either by reason of its statutes or Constitution
36 or by reason of the Constitution, treaties or statutes

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

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

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

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

32 (K) An amount equal to those dividends included in
33 such total which were paid by a corporation which
34 conducts business operations in an Enterprise Zone or
35 zones created under the Illinois Enterprise Zone Act,
36 enacted by the 82nd General Assembly, and conducts

1 substantially all of its operations in an Enterprise
2 Zone or Zones;

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (T) For taxable years ending on or after December
24 31, 2005, an amount equal to the earnings on a special
25 needs trust, to the extent included in adjusted gross
26 income. As used in this subparagraph, "special needs
27 trust" means a trust that is not liable to pay or
28 reimburse the State or any public agency for financial
29 aid or services to the individual, as provided in
30 Section 15.1 of the Trusts and Trustees Act.

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

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

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

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

32 (A) Certain life insurance companies. In the case
33 of a life insurance company subject to the tax imposed
34 by Section 801 of the Internal Revenue Code, life
35 insurance company taxable income, plus the amount of
36 distribution from pre-1984 policyholder surplus

1 accounts as calculated under Section 815a of the
2 Internal Revenue Code;

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

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

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

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

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

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

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

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

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

36 (f) Valuation limitation amount.

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

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

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

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

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

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

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

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

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

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

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.