



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB0294

Introduced 2/3/2005, by Sen. Chris Lauzen

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

605 ILCS 10/23.5 new

Amends the Illinois Income Tax Act. Allows income tax deductions, for taxable years ending on or after December 31, 2005, for (i) amounts equal to the aggregate amount of all tolls documented as being paid during the taxable year that are collected under the Toll Highway Act and (ii) amounts equal to any amount paid during the taxable year to purchase, lease, or otherwise obtain a transponder or other electronic equipment for the electronic payment of tolls that are collected under the Toll Highway Act. Amends the Toll Highway Act. Requires the Illinois State Toll Highway Authority to send, no later than January 31 of each year, a written report to each person in the State who has paid a toll during the previous calendar year through the use of a transponder or other electronic equipment. Provides that the report must set forth all payments by the person through the use of the transponder or other electronic equipment. Effective immediately.

LRB094 06526 BDD 37184 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

2 WHEREAS, Under the provisions of the Motor Fuel Tax Law,  
3 Illinois citizens must pay a tax for the purpose of the  
4 construction, operation, and maintenance of roads and highways  
5 throughout the State; and

6 WHEREAS, In those areas under the jurisdiction of the  
7 Illinois State Toll Highway Authority, Illinois citizens must  
8 pay tolls, which are also for the purpose of the construction,  
9 operation, and maintenance of highways; and

10 WHEREAS, Under this system, when using a toll highway,  
11 Illinois citizens must pay twice (once at the gas pump and once  
12 at the toll both) for the privilege of traveling on one  
13 highway; and

14 WHEREAS, It is the purpose of this legislation to alleviate  
15 the effects of this double taxation; therefore,

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

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

20 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

21 Sec. 203. Base income defined.

22 (a) Individuals.

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

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

1 (A) An amount equal to all amounts paid or accrued  
2 to the taxpayer as interest or dividends during the  
3 taxable year to the extent excluded from gross income  
4 in the computation of adjusted gross income, except  
5 stock dividends of qualified public utilities  
6 described in Section 305(e) of the Internal Revenue  
7 Code;

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

12 (C) An amount equal to the amount received during  
13 the taxable year as a recovery or refund of real  
14 property taxes paid with respect to the taxpayer's  
15 principal residence under the Revenue Act of 1939 and  
16 for which a deduction was previously taken under  
17 subparagraph (L) of this paragraph (2) prior to July 1,  
18 1991, the retrospective application date of Article 4  
19 of Public Act 87-17. In the case of multi-unit or  
20 multi-use structures and farm dwellings, the taxes on  
21 the taxpayer's principal residence shall be that  
22 portion of the total taxes for the entire property  
23 which is attributable to such principal residence;

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

28 (D-5) An amount, to the extent not included in  
29 adjusted gross income, equal to the amount of money  
30 withdrawn by the taxpayer in the taxable year from a  
31 medical care savings account and the interest earned on  
32 the account in the taxable year of a withdrawal  
33 pursuant to subsection (b) of Section 20 of the Medical  
34 Care Savings Account Act or subsection (b) of Section  
35 20 of the Medical Care Savings Account Act of 2000;

36 (D-10) For taxable years ending after December 31,

1 1997, an amount equal to any eligible remediation costs  
2 that the individual deducted in computing adjusted  
3 gross income and for which the individual claims a  
4 credit under subsection (l) of Section 201;

5 (D-15) For taxable years 2001 and thereafter, an  
6 amount equal to the bonus depreciation deduction (30%  
7 of the adjusted basis of the qualified property) taken  
8 on the taxpayer's federal income tax return for the  
9 taxable year under subsection (k) of Section 168 of the  
10 Internal Revenue Code;

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

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

23 (D-17) For taxable years ending on or after  
24 December 31, 2004, an amount equal to the amount  
25 otherwise allowed as a deduction in computing base  
26 income for interest paid, accrued, or incurred,  
27 directly or indirectly, to a foreign person who would  
28 be a member of the same unitary business group but for  
29 the fact that foreign person's business activity  
30 outside the United States is 80% or more of the foreign  
31 person's total business activity. The addition  
32 modification required by this subparagraph shall be  
33 reduced to the extent that dividends were included in  
34 base income of the unitary group for the same taxable  
35 year and received by the taxpayer or by a member of the  
36 taxpayer's unitary business group (including amounts

1 included in gross income under Sections 951 through 964  
2 of the Internal Revenue Code and amounts included in  
3 gross income under Section 78 of the Internal Revenue  
4 Code) with respect to the stock of the same person to  
5 whom the interest was paid, accrued, or incurred.

6 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

18 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

33 and by deducting from the total so obtained the sum of the  
34 following amounts:

35 (E) For taxable years ending before December 31,  
36 2001, any amount included in such total in respect of



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

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

1 (G) The valuation limitation amount;

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

5 (I) An amount equal to all amounts included in such  
6 total pursuant to the provisions of Section 111 of the  
7 Internal Revenue Code as a recovery of items previously  
8 deducted from adjusted gross income in the computation  
9 of taxable income;

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

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

25 (L) For taxable years ending after December 31,  
26 1983, an amount equal to all social security benefits  
27 and railroad retirement benefits included in such  
28 total pursuant to Sections 72(r) and 86 of the Internal  
29 Revenue Code;

30 (M) With the exception of any amounts subtracted  
31 under subparagraph (N), an amount equal to the sum of  
32 all amounts disallowed as deductions by (i) Sections  
33 171(a) (2), and 265(2) of the Internal Revenue Code of  
34 1954, as now or hereafter amended, and all amounts of  
35 expenses allocable to interest and disallowed as  
36 deductions by Section 265(1) of the Internal Revenue

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

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

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

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

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

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

31 (S) An amount, to the extent included in adjusted  
32 gross income, equal to the amount of a contribution  
33 made in the taxable year on behalf of the taxpayer to a  
34 medical care savings account established under the  
35 Medical Care Savings Account Act or the Medical Care  
36 Savings Account Act of 2000 to the extent the

1 contribution is accepted by the account administrator  
2 as provided in that Act;

3 (T) An amount, to the extent included in adjusted  
4 gross income, equal to the amount of interest earned in  
5 the taxable year on a medical care savings account  
6 established under the Medical Care Savings Account Act  
7 or the Medical Care Savings Account Act of 2000 on  
8 behalf of the taxpayer, other than interest added  
9 pursuant to item (D-5) of this paragraph (2);

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

16 (V) Beginning with tax years ending on or after  
17 December 31, 1995 and ending with tax years ending on  
18 or before December 31, 2004, an amount equal to the  
19 amount paid by a taxpayer who is a self-employed  
20 taxpayer, a partner of a partnership, or a shareholder  
21 in a Subchapter S corporation for health insurance or  
22 long-term care insurance for that taxpayer or that  
23 taxpayer's spouse or dependents, to the extent that the  
24 amount paid for that health insurance or long-term care  
25 insurance may be deducted under Section 213 of the  
26 Internal Revenue Code of 1986, has not been deducted on  
27 the federal income tax return of the taxpayer, and does  
28 not exceed the taxable income attributable to that  
29 taxpayer's income, self-employment income, or  
30 Subchapter S corporation income; except that no  
31 deduction shall be allowed under this item (V) if the  
32 taxpayer is eligible to participate in any health  
33 insurance or long-term care insurance plan of an  
34 employer of the taxpayer or the taxpayer's spouse. The  
35 amount of the health insurance and long-term care  
36 insurance subtracted under this item (V) shall be

1 determined by multiplying total health insurance and  
2 long-term care insurance premiums paid by the taxpayer  
3 times a number that represents the fractional  
4 percentage of eligible medical expenses under Section  
5 213 of the Internal Revenue Code of 1986 not actually  
6 deducted on the taxpayer's federal income tax return;

7 (W) For taxable years beginning on or after January  
8 1, 1998, all amounts included in the taxpayer's federal  
9 gross income in the taxable year from amounts converted  
10 from a regular IRA to a Roth IRA. This paragraph is  
11 exempt from the provisions of Section 250;

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

1 persecution for racial or religious reasons by Nazi  
2 Germany or any other Axis regime or as an heir of the  
3 victim. The amount of and the eligibility for any  
4 public assistance, benefit, or similar entitlement is  
5 not affected by the inclusion of items (i) and (ii) of  
6 this paragraph in gross income for federal income tax  
7 purposes. This paragraph is exempt from the provisions  
8 of Section 250;

9 (Y) For taxable years beginning on or after January  
10 1, 2002 and ending on or before December 31, 2004,  
11 moneys contributed in the taxable year to a College  
12 Savings Pool account under Section 16.5 of the State  
13 Treasurer Act, except that amounts excluded from gross  
14 income under Section 529(c)(3)(C)(i) of the Internal  
15 Revenue Code shall not be considered moneys  
16 contributed under this subparagraph (Y). For taxable  
17 years beginning on or after January 1, 2005, a maximum  
18 of \$10,000 contributed in the taxable year to (i) a  
19 College Savings Pool account under Section 16.5 of the  
20 State Treasurer Act or (ii) the Illinois Prepaid  
21 Tuition Trust Fund, except that amounts excluded from  
22 gross income under Section 529(c)(3)(C)(i) of the  
23 Internal Revenue Code shall not be considered moneys  
24 contributed under this subparagraph (Y). This  
25 subparagraph (Y) is exempt from the provisions of  
26 Section 250;

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

34 (1) "y" equals the amount of the depreciation  
35 deduction taken for the taxable year on the  
36 taxpayer's federal income tax return on property

1 for which the bonus depreciation deduction (30% of  
2 the adjusted basis of the qualified property) was  
3 taken in any year under subsection (k) of Section  
4 168 of the Internal Revenue Code, but not including  
5 the bonus depreciation deduction; and

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

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

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

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

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

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

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

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

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

33 (FF) For taxable years ending on or after December  
34 31, 2005, an amount, to the extent that it has not been  
35 deducted in calculating the taxpayer's adjusted gross  
36 income, equal to the aggregate amount of all tolls



1 documented as being paid during the taxable year that  
2 are collected under the Toll Highway Act; and

3 (GG) For taxable years ending on or after December  
4 31, 2005, an amount, to the extent that it has not been  
5 deducted in calculating the taxpayer's adjusted gross  
6 income, equal to any amount paid during the taxable  
7 year to purchase, lease, or otherwise obtain a  
8 transponder or other electronic equipment for the  
9 electronic payment of tolls that are collected under  
10 the Toll Highway Act.

11 (b) Corporations.

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

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

18 (A) An amount equal to all amounts paid or accrued  
19 to the taxpayer as interest and all distributions  
20 received from regulated investment companies during  
21 the taxable year to the extent excluded from gross  
22 income in the computation of taxable income;

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 taxable income for the taxable year;

26 (C) In the case of a regulated investment company,  
27 an amount equal to the excess of (i) the net long-term  
28 capital gain for the taxable year, over (ii) the amount  
29 of the capital gain dividends designated as such in  
30 accordance with Section 852(b)(3)(C) of the Internal  
31 Revenue Code and any amount designated under Section  
32 852(b)(3)(D) of the Internal Revenue Code,  
33 attributable to the taxable year (this amendatory Act  
34 of 1995 (Public Act 89-89) is declarative of existing  
35 law and is not a new enactment);

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

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

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

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

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

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

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

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

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

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

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

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

6 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

18 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

31 (H) In the case of a regulated investment company,  
32 an amount equal to the amount of exempt interest  
33 dividends as defined in subsection (b) (5) of Section  
34 852 of the Internal Revenue Code, paid to shareholders  
35 for the taxable year;

36 (I) With the exception of any amounts subtracted

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

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

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

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



1 this subparagraph (L);

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

22 (M-1) For any taxpayer that is a financial  
23 organization within the meaning of Section 304(c) of  
24 this Act, an amount included in such total as interest  
25 income from a loan or loans made by such taxpayer to a  
26 borrower, to the extent that such a loan is secured by  
27 property which is eligible for the High Impact Business  
28 Investment Credit. To determine the portion of a loan  
29 or loans that is secured by property eligible for a  
30 Section 201(h) investment credit to the borrower, the  
31 entire principal amount of the loan or loans between  
32 the taxpayer and the borrower should be divided into  
33 the basis of the Section 201(h) investment credit  
34 property which secures the loan or loans, using for  
35 this purpose the original basis of such property on the  
36 date that it was placed in service in a federally

1 designated Foreign Trade Zone or Sub-Zone located in  
2 Illinois. No taxpayer that is eligible for the  
3 deduction provided in subparagraph (M) of paragraph  
4 (2) of this subsection shall be eligible for the  
5 deduction provided under this subparagraph (M-1). The  
6 subtraction modification available to taxpayers in any  
7 year under this subsection shall be that portion of the  
8 total interest paid by the borrower with respect to  
9 such loan attributable to the eligible property as  
10 calculated under the previous sentence;

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

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

1 dividends received or deemed received or paid or deemed  
2 paid under Sections 951 through 964 of the Internal  
3 Revenue Code, from any such corporation specified in  
4 clause (i) that would but for the provisions of Section  
5 1504 (b) (3) of the Internal Revenue Code be treated as  
6 a member of the affiliated group which includes the  
7 dividend recipient, exceed the amount of the  
8 modification provided under subparagraph (G) of  
9 paragraph (2) of this subsection (b) which is related  
10 to such dividends;

11 (P) An amount equal to any contribution made to a  
12 job training project established pursuant to the Tax  
13 Increment Allocation Redevelopment Act;

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

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

29 (S) For taxable years ending on or after December  
30 31, 1997, in the case of a Subchapter S corporation, an  
31 amount equal to all amounts of income allocable to a  
32 shareholder subject to the Personal Property Tax  
33 Replacement Income Tax imposed by subsections (c) and  
34 (d) of Section 201 of this Act, including amounts  
35 allocable to organizations exempt from federal income  
36 tax by reason of Section 501(a) of the Internal Revenue

1 Code. This subparagraph (S) is exempt from the  
2 provisions of Section 250;

3 (T) 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 (U) 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 (E-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 (V) 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 (W) 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 that 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(b)(2)(E-12) for  
27 interest paid, accrued, or incurred, directly or  
28 indirectly, to the same foreign person; ~~and~~

29 (X) 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(b)(2)(E-13) for  
3 intangible expenses and costs paid, accrued, or  
4 incurred, directly or indirectly, to the same foreign  
5 person;

6 (Y) For taxable years ending on or after December  
7 31, 2005, an amount, to the extent that it has not been  
8 deducted in calculating the taxpayer's adjusted gross  
9 income, equal to the aggregate amount of all tolls  
10 documented as being paid during the taxable year that  
11 are collected under the Toll Highway Act; and

12 (Z) For taxable years ending on or after December  
13 31, 2005, an amount, to the extent that it has not been  
14 deducted in calculating the taxpayer's adjusted gross  
15 income, equal to any amount paid during the taxable  
16 year to purchase, lease, or otherwise obtain a  
17 transponder or other electronic equipment for the  
18 electronic payment of tolls that are collected under  
19 the Toll Highway Act.

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

24 (c) Trusts and estates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 property.

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

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

20 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

35 (W) For taxable years ending on or after December  
36 31, 2005, to the extent that it has not been deducted

1 in calculating the taxpayer's adjusted gross income,  
2 equal to the aggregate amount of all tolls documented  
3 as being paid during the taxable year that are  
4 collected under the Toll Highway Act; and

5 (X) For taxable years ending on or after December  
6 31, 2005, an amount, to the extent that it has not been  
7 deducted in calculating the taxpayer's adjusted gross  
8 income, equal to any amount paid during the taxable  
9 year to purchase, lease, or otherwise obtain a  
10 transponder or other electronic equipment for the  
11 electronic payment of tolls that are collected under  
12 the Toll Highway Act.

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

20 (d) Partnerships.

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

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

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

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

34 (C) The amount of deductions allowed to the  
35 partnership pursuant to Section 707 (c) of the Internal

1 Revenue Code in calculating its taxable income;

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

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

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

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

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

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

7 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

19 This paragraph shall not apply to the following:

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

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

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

36 (b) the transaction giving rise to the

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

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

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

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

27 (E) The valuation limitation amount;

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

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

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

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

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

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



1 Zone or Zones;

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

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

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

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

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

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

36 The aggregate amount deducted under this

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

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

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

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

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

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

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

22 (T) For taxable years ending on or after December  
23 31, 2005, an amount, to the extent that it has not been  
24 deducted in calculating the taxpayer's adjusted gross  
25 income, equal to the aggregate amount of all tolls  
26 documented as being paid during the taxable year  
27 that are collected under the Toll Highway Act; and

28 (U) For taxable years ending on or after December  
29 31, 2005, an amount, to the extent that it has not been  
30 deducted in calculating the taxpayer's adjusted gross  
31 income, equal to any amount paid during the taxable  
32 year to purchase, lease, or otherwise obtain a  
33 transponder or other electronic equipment for the  
34 electronic payment of tolls that are collected under  
35 the Toll Highway Act.

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

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

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

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

8           (B) Certain other insurance companies. In the case  
9 of mutual insurance companies subject to the tax  
10 imposed by Section 831 of the Internal Revenue Code,  
11 insurance company taxable income;

12           (C) Regulated investment companies. In the case of  
13 a regulated investment company subject to the tax  
14 imposed by Section 852 of the Internal Revenue Code,  
15 investment company taxable income;

16           (D) Real estate investment trusts. In the case of a  
17 real estate investment trust subject to the tax imposed  
18 by Section 857 of the Internal Revenue Code, real  
19 estate investment trust taxable income;

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

32           (F) Cooperatives. In the case of a cooperative  
33 corporation or association, the taxable income of such  
34 organization determined in accordance with the  
35 provisions of Section 1381 through 1388 of the Internal  
36 Revenue Code;

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

17 (H) Partnerships. In the case of a partnership,  
18 taxable income determined in accordance with Section  
19 703 of the Internal Revenue Code, except that taxable  
20 income shall take into account those items which are  
21 required by Section 703(a)(1) to be separately stated  
22 but which would be taken into account by an individual  
23 in calculating his taxable income.

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

1 taxable year or the average of the apportionment fractions  
2 computed for the business under Section 304 of this Act for  
3 the taxable year and for the 2 immediately preceding  
4 taxable years.

5 (f) Valuation limitation amount.

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

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

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

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

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

34 (B) If the fair market value of property referred  
35 to in paragraph (1) was not readily ascertainable on  
36 August 1, 1969, the pre-August 1, 1969 appreciation

1 amount for such property is that amount which bears the  
2 same ratio to the total gain reported in respect of the  
3 property for federal income tax purposes for the  
4 taxable year, as the number of full calendar months in  
5 that part of the taxpayer's holding period for the  
6 property ending July 31, 1969 bears to the number of  
7 full calendar months in the taxpayer's entire holding  
8 period for the property.

9 (C) The Department shall prescribe such  
10 regulations as may be necessary to carry out the  
11 purposes of this paragraph.

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

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

24 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,  
25 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;  
26 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.  
27 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

28 Section 10. The Toll Highway Act is amended by adding  
29 Section 23.5 as follows:

30 (605 ILCS 10/23.5 new)

31 Sec. 23.5. Annual reports to toll payers. No later than  
32 January 31 of each year, the Authority must send a written



1 report to each person in the State who has paid a toll during  
2 the previous calendar year through the use of a transponder or  
3 other electronic equipment. The report must set forth all  
4 payments by the person through the use of the transponder or  
5 other electronic equipment.

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