



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0507

Introduced 2/17/2005, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Ends, with taxable years ending on or before December 31, 2004, the addition modification requirement for individuals for distributions from non-Illinois qualified tuition programs under provisions of the Internal Revenue Code. Allows a deduction for individuals, for taxable years beginning on or after January 1, 2005 of up to \$10,000 for contributions to all qualified tuition programs under the Internal Revenue Code (now, the deduction is allowed only for contributions to a College Savings Pool Account or to the Illinois Prepaid Tuition Trust Fund). Effective immediately.

LRB094 08414 BDD 38616 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

7 (D-20) For taxable years beginning on or after
8 January 1, 2002 through taxable years ending on or
9 before December 31, 2004, in the case of a distribution
10 from a qualified tuition program under Section 529 of
11 the Internal Revenue Code, other than (i) a
12 distribution from a College Savings Pool created under
13 Section 16.5 of the State Treasurer Act or (ii) a
14 distribution from the Illinois Prepaid Tuition Trust
15 Fund, an amount equal to the amount excluded from gross
16 income under Section 529(c)(3)(B);

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

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

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

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

21 (G) The valuation limitation amount;

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

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

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

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

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

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

14 (M) With the exception of any amounts subtracted
15 under subparagraph (N), an amount equal to the sum of
16 all amounts disallowed as deductions by (i) Sections
17 171(a) (2), and 265(2) of the Internal Revenue Code of
18 1954, as now or hereafter amended, and all amounts of
19 expenses allocable to interest and disallowed as
20 deductions by Section 265(1) of the Internal Revenue
21 Code of 1954, as now or hereafter amended; and (ii) for
22 taxable years ending on or after August 13, 1999,
23 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
24 the Internal Revenue Code; the provisions of this
25 subparagraph are exempt from the provisions of Section
26 250;

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

36 (O) An amount equal to any contribution made to a

1 job training project established pursuant to the Tax
2 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

36 (V) Beginning with tax years ending on or after

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 person's total business activity, but not to exceed the
2 addition modification required to be made for the same
3 taxable year under Section 203(a)(2)(D-17) for
4 interest paid, accrued, or incurred, directly or
5 indirectly, to the same foreign person; and

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

19 (b) Corporations.

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

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

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

34 (C) In the case of a regulated investment company,
35 an amount equal to the excess of (i) the net long-term

1 capital gain for the taxable year, over (ii) the amount
2 of the capital gain dividends designated as such in
3 accordance with Section 852(b)(3)(C) of the Internal
4 Revenue Code and any amount designated under Section
5 852(b)(3)(D) of the Internal Revenue Code,
6 attributable to the taxable year (this amendatory Act
7 of 1995 (Public Act 89-89) is declarative of existing
8 law and is not a new enactment);

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

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

23 (i) 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 be reduced by the amount of
27 addition modification under this subparagraph (E)
28 which related to that net operating loss and which
29 was taken into account in calculating the base
30 income of an earlier taxable year, and

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

36 For taxable years in which there is a net operating

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

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

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

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

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

30 (E-12) For taxable years ending on or after
31 December 31, 2004, an amount equal to the amount
32 otherwise allowed as a deduction in computing base
33 income for interest paid, accrued, or incurred,
34 directly or indirectly, to a foreign person who would
35 be a member of the same unitary business group but for
36 the fact the foreign person's business activity

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

14 This paragraph shall not apply to the following:

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

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

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

30 (b) the transaction giving rise to the
31 interest expense between the taxpayer and the
32 foreign person did not have as a principal
33 purpose the avoidance of Illinois income tax,
34 and is paid pursuant to a contract or agreement
35 that reflects an arm's-length interest rate
36 and terms; or

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

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

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

26 This paragraph shall not apply to the following:

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

34 (ii) any item of intangible expense or cost
35 paid, accrued, or incurred, directly or
36 indirectly, if the taxpayer can establish, based

1 on a preponderance of the evidence, both of the
2 following:

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

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

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

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

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

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

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

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

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

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

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 and conducts substantially all of its operations in an
36 Enterprise Zone or zones;

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

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

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

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

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

27 (O) An amount equal to: (i) 85% for taxable years
28 ending on or before December 31, 1992, or, a percentage
29 equal to the percentage allowable under Section
30 243(a)(1) of the Internal Revenue Code of 1986 for
31 taxable years ending after December 31, 1992, of the
32 amount by which dividends included in taxable income
33 and received from a corporation that is not created or
34 organized under the laws of the United States or any
35 state or political subdivision thereof, including, for
36 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, exceed the amount of the modification
4 provided under subparagraph (G) of paragraph (2) of
5 this subsection (b) which is related to such dividends;
6 plus (ii) 100% of the amount by which dividends,
7 included in taxable income and received, including,
8 for taxable years ending on or after December 31, 1988,
9 dividends received or deemed received or paid or deemed
10 paid under Sections 951 through 964 of the Internal
11 Revenue Code, from any such corporation specified in
12 clause (i) that would but for the provisions of Section
13 1504 (b) (3) of the Internal Revenue Code be treated as
14 a member of the affiliated group which includes the
15 dividend recipient, exceed the amount of the
16 modification provided under subparagraph (G) of
17 paragraph (2) of this subsection (b) which is related
18 to such dividends;

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

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

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

1 (S) For taxable years ending on or after December
2 31, 1997, in the case of a Subchapter S corporation, an
3 amount equal to all amounts of income allocable to a
4 shareholder subject to the Personal Property Tax
5 Replacement Income Tax imposed by subsections (c) and
6 (d) of Section 201 of this Act, including amounts
7 allocable to organizations exempt from federal income
8 tax by reason of Section 501(a) of the Internal Revenue
9 Code. This subparagraph (S) is exempt from the
10 provisions of Section 250;

11 (T) For taxable years 2001 and thereafter, for the
12 taxable year in which the bonus depreciation deduction
13 (30% of the adjusted basis of the qualified property)
14 is taken on the taxpayer's federal income tax return
15 under subsection (k) of Section 168 of the Internal
16 Revenue Code and for each applicable taxable year
17 thereafter, an amount equal to "x", where:

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

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

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

35 (U) If the taxpayer reports a capital gain or loss
36 on the taxpayer's federal income tax return for the

1 taxable year based on a sale or transfer of property
2 for which the taxpayer was required in any taxable year
3 to make an addition modification under subparagraph
4 (E-10), then an amount equal to that addition
5 modification.

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

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

25 (W) An amount equal to the interest income taken
26 into account for the taxable year (net of the
27 deductions allocable thereto) with respect to
28 transactions with a foreign person who would be a
29 member of the taxpayer's unitary business group but for
30 the fact that the foreign person's business activity
31 outside the United States is 80% or more of that
32 person's total business activity, but not to exceed the
33 addition modification required to be made for the same
34 taxable year under Section 203(b)(2)(E-12) for
35 interest paid, accrued, or incurred, directly or
36 indirectly, to the same foreign person; and

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

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

18 (c) Trusts and estates.

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

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

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

30 (B) In the case of (i) an estate, \$600; (ii) a
31 trust which, under its governing instrument, is
32 required to distribute all of its income currently,
33 \$300; and (iii) any other trust, \$100, but in each such
34 case, only to the extent such amount was deducted in
35 the computation of taxable income;

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

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

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

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

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

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

1 subparagraph (E) for each such taxable year;

2 (F) For taxable years ending on or after January 1,
3 1989, an amount equal to the tax deducted pursuant to
4 Section 164 of the Internal Revenue Code if the trust
5 or estate is claiming the same tax for purposes of the
6 Illinois foreign tax credit under Section 601 of this
7 Act;

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

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

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

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

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

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

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

19 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

31 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

3 (H) An amount equal to all amounts included in such
4 total pursuant to the provisions of Sections 402(a),
5 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
6 Internal Revenue Code or included in such total as
7 distributions under the provisions of any retirement
8 or disability plan for employees of any governmental
9 agency or unit, or retirement payments to retired
10 partners, which payments are excluded in computing net
11 earnings from self employment by Section 1402 of the
12 Internal Revenue Code and regulations adopted pursuant
13 thereto;

14 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

33 (1) "y" equals the amount of the depreciation
34 deduction taken for the taxable year on the
35 taxpayer's federal income tax return on property
36 for which the bonus depreciation deduction (30% of

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

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

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

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

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

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

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
2 203(d)(2)(D-8), but not to exceed the amount of such
3 addition modification;

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

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

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

1 (d) Partnerships.

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

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

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

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

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

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

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

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

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

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

23 This paragraph shall not apply to the following:

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

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

35 (a) the foreign person, during the same
36 taxable year, paid, accrued, or incurred, the

1 interest to a person that is not a related
2 member, and

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

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

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

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

33 (D-8) For taxable years ending on or after December
34 31, 2004, an amount equal to the amount of intangible
35 expenses and costs otherwise allowed as a deduction in
36 computing base income, and that were paid, accrued, or

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

35 This paragraph shall not apply to the following:

- 36 (i) any item of intangible expenses or costs

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

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

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

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

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

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

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

5 and by deducting from the total so obtained the following
6 amounts:

7 (E) The valuation limitation amount;

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

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

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

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

34 (J) With the exception of any amounts subtracted
35 under subparagraph (G), an amount equal to the sum of
36 all amounts disallowed as deductions by (i) Sections

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

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

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

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

30 (N) 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 (O) For taxable years 2001 and thereafter, for the
36 taxable year in which the bonus depreciation deduction

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

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

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

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

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

30 The taxpayer is allowed to take the deduction under
31 this subparagraph only once with respect to any one
32 piece of property;

33 (Q) The amount of (i) any interest income (net of
34 the deductions allocable thereto) taken into account
35 for the taxable year with respect to a transaction with
36 a taxpayer that is required to make an addition

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

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

25 (S) An amount equal to the income from intangible
26 property taken into account for the taxable year (net
27 of the deductions allocable thereto) with respect to
28 transactions with a foreign person who would be a
29 member of the taxpayer's unitary business group but for
30 the fact that the foreign person's business activity
31 outside the United States is 80% or more of that
32 person's total business activity, but not to exceed the
33 addition modification required to be made for the same
34 taxable year under Section 203(d)(2)(D-8) for
35 intangible expenses and costs paid, accrued, or
36 incurred, directly or indirectly, to the same foreign

1 person.

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

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

35 (2) Special rule. For purposes of paragraph (1) of this

1 subsection, the taxable income properly reportable for
2 federal income tax purposes shall mean:

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

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

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

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

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

34 (F) Cooperatives. In the case of a cooperative
35 corporation or association, the taxable income of such
36 organization determined in accordance with the

1 provisions of Section 1381 through 1388 of the Internal
2 Revenue Code;

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

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

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

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

7 (f) Valuation limitation amount.

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

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

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

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

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

36 (B) If the fair market value of property referred

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

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

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

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

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

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.