



Sen. Don Harmon

Filed: 4/7/2005

09400SB1815sam001

LRB094 11152 BDD 44382 a

1 AMENDMENT TO SENATE BILL 1815

2 AMENDMENT NO. _____. Amend Senate Bill 1815 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Lifelong Learning Act.

6 Section 5. Definitions. As used in this Act:

7 "Account owner" means an eligible employee for which a
8 lifelong learning account has been established under this Act.

9 "Accredited lifelong learning plan" means a lifelong
10 learning plan that has been certified by the Department.

11 "Department" means the Department of Commerce and Economic
12 Opportunity.

13 "Eligible education expense" means a payment for
14 education, including tuition and fees and similar payments,
15 books, supplies, equipment, and tools or supplies that may be
16 retained by the employee after completion of a course of
17 instruction. "Eligible education expense" does not include any
18 expense for (i) meals, lodging, or transportation or (ii) any
19 course or other education involving sports, games, or hobbies.

20 "Eligible employee" means the following:

21 (1) a full-time employee of a participating employer;

22 or

23 (2) A part-time employee of a participating employer,

24 if the part-time employee's principal place of employment

1 is with a participating employer located in Illinois and if
2 the participating employer elects to include part-time
3 employees in the participating employer's plan.

4 "Full-time employee" means an individual who:

5 (1) is employed for consideration for at least 35 hours
6 each week or who renders any other standard of service
7 generally accepted by custom or specified by contract as
8 full-time employment; and

9 (2) has the individual's principal place of employment
10 in Illinois with a participating employer.

11 "Participating employer" means a person who (i) employs at
12 least one eligible employee and (ii) has established an
13 accredited lifelong learning plan.

14 Section 10. Powers of the Department. The Department, in
15 addition to those powers granted under the Civil Administrative
16 Code of Illinois, is granted and has all the powers necessary
17 or convenient to carry out and effectuate the purposes and
18 provisions of this Act, including, but not limited to, the
19 power and authority to:

20 (i) adopt rules that are necessary and appropriate for
21 the administration of the tax credit program established
22 under Section 30; establish forms for applications,
23 notifications, contracts, or any other agreements; and
24 accept applications at any time during the year;

25 (ii) assist applicants under the provisions of this Act
26 to promote, foster, and support lifelong learning within
27 the State;

28 (iii) gather information and conduct inquiries, in the
29 manner and by the methods as it deems desirable, including,
30 without limitation, gathering information with respect to
31 applicants for the purpose of making any necessary or
32 desirable designations or certifications or to gather
33 information to assist the Department with any

1 recommendation or guidance in the furtherance of the
2 purposes of this Act;

3 (iv) provide for sufficient personnel to permit
4 administration, staffing, operation, and related support
5 required to adequately discharge its duties and
6 responsibilities described in this Act from funds as may be
7 appropriated by the General Assembly for the
8 administration of this Act;

9 (v) require applicants, upon written request, to issue
10 any necessary authorization to the appropriate federal,
11 state, or local authority for the release of information
12 concerning a project being considered under the provisions
13 of this Act, including, but not limited to, financial
14 reports, returns, or records relating to the applicant; and

15 (vi) require that an applicant must at all times keep
16 proper books of record and account in accordance with
17 generally accepted accounting principles consistently
18 applied, with the books, records, or papers related to the
19 accredited production in the custody or control of the
20 taxpayer open for reasonable Department inspection and
21 audits, and including, without limitation, the making of
22 copies of the books, records, or papers, and the inspection
23 or appraisal of any of the assets of the applicant.

24 Section 15. Application for certification of accredited
25 plan. Any employer located in Illinois, proposing to establish
26 a lifelong learning plan under this Act may request an
27 accredited plan certificate by formal application to the
28 Department.

29 Section 20. Review of application for accredited plan
30 certificate.

31 (a) In determining whether to issue an accredited plan
32 certificate, the Department must determine that a

1 preponderance of the following conditions exist:

2 (1) The plan is in writing.

3 (2) The plan covers at least all full-time employees of
4 the employer and, if the employer elects to cover part-time
5 employees under the plan, all part-time employees. The plan
6 may require that employees have been employed by the
7 employer for a set amount of time, up to 6 months, in order
8 to be eligible for an account.

9 (3) The plan provides for the establishment of a
10 lifelong learning account, as provided under Section 5, for
11 each eligible employee to which:

12 (A) an eligible employee makes contributions for
13 the payment of eligible education expenses; and

14 (B) the employer makes matching contributions on a
15 dollar for dollar basis for the purpose of paying
16 eligible education expenses. However, the plan may
17 limit the maximum amount that the employer must match.
18 The limitation must uniformly apply to all full-time
19 employees of the employer. If the employer elects to
20 have part-time employees participate in the plan, the
21 employer may impose a different uniform limitation for
22 part-time employees.

23 (4) The plan provides, subject to Section 25, that the
24 lifelong learning account may be used only to pay eligible
25 education expenses incurred by or on behalf of an eligible
26 employee for education selected at the sole discretion of
27 the eligible employee.

28 (5) The plan provides that the availability of the plan
29 does not reduce or substitute for any other education
30 program provided by the employer, including the provision,
31 by an employer, of courses of instruction for the
32 employer's eligible employees (including books, supplies,
33 and equipment).

34 (6) The plan sets forth procedures for the

1 dissemination of information about the plan, including the
2 federal and State income tax consequences of the plan.

3 (7) The plan sets forth procedures for submitting any
4 required reports or returns to the Department of Revenue.

5 (8) The plan sets forth procedures for the allocation
6 of credits by the Department for the employer's eligible
7 employees among those eligible employees.

8 (b) Upon satisfactory review of the application, the
9 Department shall issue an Accredited Lifelong Learning Plan
10 Certificate.

11 Section 25. Lifelong learning accounts.

12 (a) To qualify as a lifelong learning account under this
13 Act, an account must meet all the following criteria:

14 (1) The account must be established and administered in
15 accordance with a lifelong learning plan, as set forth
16 under Section 20.

17 (2) Except as otherwise provided in this Section, the
18 account may be used only to pay eligible education expenses
19 incurred by or on behalf of the account owner for education
20 selected at the sole discretion of the account owner.

21 (3) The account must be held by a trustee, custodian,
22 or fiduciary approved by the Department. The trustee,
23 custodian, or fiduciary may be a bank, trust company,
24 national banking association, credit union, savings and
25 loan association, insurance company, or other financial
26 institution as determined by the Department.

27 (b) Moneys in a lifelong learning account that are
28 contributed by an account owner must be held in trust for the
29 account owner. An account owner may withdraw the amount of his
30 or her contribution to the account at any time for any purpose.
31 A withdrawal from a lifelong learning account is a qualified
32 withdrawal and may be made without penalty if the withdrawal is
33 made by the account owner or his or her designee and if the

1 withdrawal is made: (i) for the purpose of paying the qualified
2 higher education expenses of the account owner; (ii) as a
3 result of the death or disability of the account owner; or
4 (iii) as a result of a rollover to the account of another
5 participating employer, in accordance with rules adopted by the
6 Department.

7 (c) Withdrawals that do not meet the requirements of
8 subsection (b) are nonqualified withdrawals and are subject to
9 the provisions of this subsection (c). In the case of any
10 nonqualified withdrawal from a lifelong learning account, an
11 amount of not more than 15% of the withdrawal may be withheld
12 as a penalty and paid to the Department for use in operating
13 and marketing the program. The Department may establish the
14 percentage rate of the penalty or change the basis of the
15 penalty if the Department determines that it is necessary to do
16 so in order to discourage nonqualified withdrawals. If an
17 account owner makes a nonqualified withdrawal and no penalty
18 amount is withheld under this Section or, if the amount
19 withheld is less than the amount required to be withheld by the
20 Department, then the account owner shall pay the unpaid portion
21 of the penalty to the Department on or before April 15 of the
22 following tax year.

23 (d) A lifelong learning account may contain gifts to the
24 account in addition to contributions by the account owner or a
25 participating employer. A gift to an account may be used only
26 to pay eligible education expenses.

27 Section 30. Tax credit awards. Subject to the provisions
28 of Section 216 of the Illinois Income Tax Act, a participating
29 employer is entitled to an income tax credit of up to \$500 per
30 taxable year per participating employee for contributions made
31 to a lifelong learning account established under the employer's
32 accredited lifelong learning plan.

1 Section 35. Evaluation of the Act. No later than January
2 30, 2007, the Department must evaluate the lifelong learning
3 account program established under this Act. The evaluation must
4 include an assessment of the effectiveness of the program in
5 meeting the educational needs of the citizens of and employers
6 in Illinois and of the revenue impact of the program, and may
7 include a review of the practices and experiences of other
8 states or nations with similar programs. Upon completion of
9 this evaluation, the Department shall determine the overall
10 success of the program and may make a recommendation to extend,
11 modify, or not extend the program based on this evaluation.

12 Section 40. The Department may not accredit any lifelong
13 learning plan after December 31, 2008. No participating
14 employer may receive a tax credit for contributions made to a
15 lifelong learning account after December 31, 2008. The
16 Department may not accredit more than 10,000 life long learning
17 plans before December 31, 2008.

18 Section 900. The Illinois Income Tax Act is amended by
19 changing Section 203 and by adding Section 216 as follows:

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

21 Sec. 203. Base income defined.

22 (a) Individuals.

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

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

30 (A) An amount equal to all amounts paid or accrued
31 to the taxpayer as interest or dividends during the

1 taxable year to the extent excluded from gross income
2 in the computation of adjusted gross income, except
3 stock dividends of qualified public utilities
4 described in Section 305(e) of the Internal Revenue
5 Code;

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

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

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

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

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

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

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

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

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

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

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

8 This paragraph shall not apply to the following:

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

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

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

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

31 (iii) the taxpayer can establish, based on
32 clear and convincing evidence, that the interest
33 paid, accrued, or incurred relates to a contract or
34 agreement entered into at arm's-length rates and

1 terms and the principal purpose for the payment is
2 not federal or Illinois tax avoidance; or

3 (iv) an item of interest paid, accrued, or
4 incurred, directly or indirectly, to a foreign
5 person if the taxpayer establishes by clear and
6 convincing evidence that the adjustments are
7 unreasonable; or if the taxpayer and the Director
8 agree in writing to the application or use of an
9 alternative method of apportionment under Section
10 304(f).

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

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

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

24 This paragraph shall not apply to the following:

25 (i) any item of intangible expenses or costs
26 paid, accrued, or incurred, directly or
27 indirectly, from a transaction with 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 item; or

32 (ii) any item of intangible expense or cost
33 paid, accrued, or incurred, directly or
34 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 (D-20) For taxable years beginning on or after
33 January 1, 2002, in the case of a distribution from a
34 qualified tuition program under Section 529 of the

1 Internal Revenue Code, other than (i) a distribution
2 from a College Savings Pool created under Section 16.5
3 of the State Treasurer Act or (ii) a distribution from
4 the Illinois Prepaid Tuition Trust Fund, an amount
5 equal to the amount excluded from gross income under
6 Section 529(c) (3) (B);

7 (D-21) For taxable years beginning on or after January
8 1, 2006, an amount equal to the amount of money
9 withdrawn by the taxpayer in the taxable year from a
10 lifelong learning account established under the
11 Lifelong Learning Act;

12 and by deducting from the total so obtained the sum of the
13 following amounts:

14 (E) For taxable years ending before December 31,
15 2001, any amount included in such total in respect of
16 any compensation (including but not limited to any
17 compensation paid or accrued to a serviceman while a
18 prisoner of war or missing in action) paid to a
19 resident by reason of being on active duty in the Armed
20 Forces of the United States and in respect of any
21 compensation paid or accrued to a resident who as a
22 governmental employee was a prisoner of war or missing
23 in action, and in respect of any compensation paid to a
24 resident in 1971 or thereafter for annual training
25 performed pursuant to Sections 502 and 503, Title 32,
26 United States Code as a member of the Illinois National
27 Guard. For taxable years ending on or after December
28 31, 2001, any amount included in such total in respect
29 of any compensation (including but not limited to any
30 compensation paid or accrued to a serviceman while a
31 prisoner of war or missing in action) paid to a
32 resident by reason of being a member of any component
33 of the Armed Forces of the United States and in respect
34 of any compensation paid or accrued to a resident who

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

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

18 (G) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (U) For one taxable year beginning on or after
32 January 1, 1994, an amount equal to the total amount of
33 tax imposed and paid under subsections (a) and (b) of
34 Section 201 of this Act on grant amounts received by

1 the taxpayer under the Nursing Home Grant Assistance
2 Act during the taxpayer's taxable years 1992 and 1993;

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

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

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

34 (Y) For taxable years beginning on or after January

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

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

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

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

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

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

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

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

21 (CC) The amount of (i) any interest income (net of
22 the deductions allocable thereto) taken into account
23 for the taxable year with respect to a transaction with
24 a taxpayer that is required to make an addition
25 modification with respect to such transaction under
26 Section 203(a)(2)(D-17), 203(b)(2)(E-13),
27 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
28 the amount of that addition modification, and (ii) any
29 income from intangible property (net of the deductions
30 allocable thereto) taken into account for the taxable
31 year with respect to a transaction with a taxpayer that
32 is required to make an addition modification with
33 respect to such transaction under Section
34 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or

1 203(d)(2)(D-8), but not to exceed the amount of that
2 addition modification;

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

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

28 (FF) For taxable years beginning on or after
29 January 1, 2006, an amount equal to the amount of money
30 deposited by the taxpayer in the taxable year into a
31 lifelong learning account established under the
32 Lifelong Learning Act of which the taxpayer is a
33 beneficiary. This paragraph is exempt from the
34 provisions of Section 250.

1 (b) Corporations.

2 (1) In general. In the case of a corporation, 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 and all distributions
10 received from regulated investment companies during
11 the taxable year to the extent excluded from gross
12 income in the computation of taxable income;

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

16 (C) In the case of a regulated investment company,
17 an amount equal to the excess of (i) the net long-term
18 capital gain for the taxable year, over (ii) the amount
19 of the capital gain dividends designated as such in
20 accordance with Section 852(b)(3)(C) of the Internal
21 Revenue Code and any amount designated under Section
22 852(b)(3)(D) of the Internal Revenue Code,
23 attributable to the taxable year (this amendatory Act
24 of 1995 (Public Act 89-89) is declarative of existing
25 law and is not a new enactment);

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

30 (E) For taxable years in which a net operating loss
31 carryback or carryforward from a taxable year ending
32 prior to December 31, 1986 is an element of taxable
33 income under paragraph (1) of subsection (e) or

1 subparagraph (E) of paragraph (2) of subsection (e),
2 the amount by which addition modifications other than
3 those provided by this subparagraph (E) exceeded
4 subtraction modifications in such earlier taxable
5 year, with the following limitations applied in the
6 order that they are listed:

7 (i) the addition modification relating to the
8 net operating loss carried back or forward to the
9 taxable year from any taxable year ending prior to
10 December 31, 1986 shall be reduced by the amount of
11 addition modification under this subparagraph (E)
12 which related to that net operating loss and which
13 was taken into account in calculating the base
14 income of an earlier taxable year, and

15 (ii) the addition modification relating to the
16 net operating loss carried back or forward to the
17 taxable year from any taxable year ending prior to
18 December 31, 1986 shall not exceed the amount of
19 such carryback or carryforward;

20 For taxable years in which there is a net operating
21 loss carryback or carryforward from more than one other
22 taxable year ending prior to December 31, 1986, the
23 addition modification provided in this subparagraph
24 (E) shall be the sum of the amounts computed
25 independently under the preceding provisions of this
26 subparagraph (E) for each such taxable year;

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

32 (E-10) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction (30%
34 of the adjusted basis of the qualified property) taken

1 on the taxpayer's federal income tax return for the
2 taxable year under subsection (k) of Section 168 of the
3 Internal Revenue Code; and

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

13 The taxpayer is required to make the addition
14 modification under this subparagraph only once with
15 respect to any one piece of property;

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

1 incurred.

2 This paragraph shall not apply to the following:

3 (i) an item of interest paid, accrued, or
4 incurred, directly or indirectly, to 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 interest; or

9 (ii) an item of interest paid, accrued, or
10 incurred, directly or indirectly, to a foreign
11 person if the taxpayer can establish, based on a
12 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 interest to a person that is not a related
17 member, and

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

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

31 (iv) an item of interest paid, accrued, or
32 incurred, directly or indirectly, to a foreign
33 person if the taxpayer establishes by clear and
34 convincing evidence that the adjustments are

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

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

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

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

18 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

33 (H) In the case of a regulated investment company,
34 an amount equal to the amount of exempt interest

1 dividends as defined in subsection (b) (5) of Section
2 852 of the Internal Revenue Code, paid to shareholders
3 for the taxable year;

4 (I) With the exception of any amounts subtracted
5 under subparagraph (J), an amount equal to the sum of
6 all amounts disallowed as deductions by (i) Sections
7 171(a) (2), and 265(a) (2) and amounts disallowed as
8 interest expense by Section 291(a) (3) of the Internal
9 Revenue Code, as now or hereafter amended, and all
10 amounts of expenses allocable to interest and
11 disallowed as deductions by Section 265(a) (1) of the
12 Internal Revenue Code, as now or hereafter amended; and
13 (ii) for taxable years ending on or after August 13,
14 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and
15 832(b) (5) (B) (i) of the Internal Revenue Code; the
16 provisions of this subparagraph are exempt from the
17 provisions of Section 250;

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

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

33 (L) An amount equal to those dividends included in
34 such total that were paid by a corporation that

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (c) Trusts and estates.

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

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

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

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

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

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

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

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

1 income of an earlier taxable year, and

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

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

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

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

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

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

1 (G-11) If the taxpayer reports a capital gain or
2 loss on the taxpayer's federal income tax return for
3 the taxable year based on a sale or transfer of
4 property for which the taxpayer was required in any
5 taxable year to make an addition modification under
6 subparagraph (G-10), then an amount equal to the
7 aggregate amount of the deductions taken in all taxable
8 years under subparagraph (R) with respect to that
9 property.

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

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

33 This paragraph shall not apply to the following:

34 (i) an item of interest paid, accrued, or

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

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

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

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

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

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

1 304(f).

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

11 (G-13) For taxable years ending on or after
12 December 31, 2004, an amount equal to the amount of
13 intangible expenses and costs otherwise allowed as a
14 deduction in computing base income, and that were paid,
15 accrued, or incurred, directly or indirectly, to a
16 foreign person who would be a member of the same
17 unitary business group but for the fact that the
18 foreign person's business activity outside the United
19 States is 80% or more of that person's total business
20 activity. The addition modification required by this
21 subparagraph shall be reduced to the extent that
22 dividends were included in base income of the unitary
23 group for the same taxable year and received by the
24 taxpayer or by a member of the taxpayer's unitary
25 business group (including amounts included in gross
26 income pursuant to Sections 951 through 964 of the
27 Internal Revenue Code and amounts included in gross
28 income under Section 78 of the Internal Revenue Code)
29 with respect to the stock of the same person to whom
30 the intangible expenses and costs were directly or
31 indirectly paid, incurred, or accrued. The preceding
32 sentence shall not apply to the extent that the same
33 dividends caused a reduction to the addition
34 modification required under Section 203(c)(2)(G-12) of

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

15 This paragraph shall not apply to the following:

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

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

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

32 (b) the transaction giving rise to the
33 intangible expense or cost between the
34 taxpayer and the foreign person did not have as

1 a principal purpose the avoidance of Illinois
2 income tax, and is paid pursuant to a contract
3 or agreement that reflects arm's-length terms;
4 or

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

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

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

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

1 thereto;

2 (I) The valuation limitation amount;

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

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

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

30 (M) 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

1 Enterprise Zone or Zones;

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

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

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

19 (Q) For taxable year 1999 and thereafter, an amount
20 equal to the amount of any (i) distributions, to the
21 extent includible in gross income for federal income
22 tax purposes, made to the taxpayer because of his or
23 her status as a victim of persecution for racial or
24 religious reasons by Nazi Germany or any other Axis
25 regime or as an heir of the victim and (ii) items of
26 income, to the extent includible in gross income for
27 federal income tax purposes, attributable to, derived
28 from or in any way related to assets stolen from,
29 hidden from, or otherwise lost to a victim of
30 persecution for racial or religious reasons by Nazi
31 Germany or any other Axis regime immediately prior to,
32 during, and immediately after World War II, including,
33 but not limited to, interest on the proceeds receivable
34 as insurance under policies issued to a victim of

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

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

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

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

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

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

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

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

34 (U) An amount equal to the interest income taken

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

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

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

32 (d) Partnerships.

33 (1) In general. In the case of a partnership, base

1 income means an amount equal to the taxpayer's taxable
2 income for the taxable year as modified by paragraph (2).

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

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

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

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

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

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

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

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; and

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

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

5 This paragraph shall not apply to the following:

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

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

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

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

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

1 agree in writing to the application or use of an
2 alternative method of apportionment under Section
3 304(f);

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

13 and by deducting from the total so obtained the following
14 amounts:

15 (E) The valuation limitation amount;

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

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

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

1 (I) An amount equal to all amounts of income
2 distributable to an entity subject to the Personal
3 Property Tax Replacement Income Tax imposed by
4 subsections (c) and (d) of Section 201 of this Act
5 including amounts distributable to organizations
6 exempt from federal income tax by reason of Section
7 501(a) of the Internal Revenue Code;

8 (J) With the exception of any amounts subtracted
9 under subparagraph (G), an amount equal to the sum of
10 all amounts disallowed as deductions by (i) Sections
11 171(a) (2), and 265(2) of the Internal Revenue Code of
12 1954, as now or hereafter amended, and all amounts of
13 expenses allocable to interest and disallowed as
14 deductions by Section 265(1) of the Internal Revenue
15 Code, as now or hereafter amended; and (ii) for taxable
16 years ending on or after August 13, 1999, Sections
17 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
18 Internal Revenue Code; the provisions of this
19 subparagraph are exempt from the provisions of Section
20 250;

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

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

31 (M) An amount equal to those dividends included in
32 such total that were paid by a corporation that
33 conducts business operations in a federally designated
34 Foreign Trade Zone or Sub-Zone and that is designated a

1 High Impact Business located in Illinois; provided
2 that dividends eligible for the deduction provided in
3 subparagraph (K) of paragraph (2) of this subsection
4 shall not be eligible for the deduction provided under
5 this subparagraph (M);

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

11 (O) 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;

1 (P) 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-5), 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 (Q) The amount of (i) any interest income (net of
12 the deductions allocable thereto) taken into account
13 for the taxable year with respect to a transaction with
14 a taxpayer that is required to make an addition
15 modification with respect to such transaction under
16 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
17 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
18 the amount of such addition modification and (ii) any
19 income from intangible property (net of the deductions
20 allocable thereto) taken into account for the taxable
21 year with respect to a transaction with a taxpayer that
22 is required to make an addition modification with
23 respect to such transaction under Section
24 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
25 203(d)(2)(D-8), but not to exceed the amount of such
26 addition modification;

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

1 addition modification required to be made for the same
2 taxable year under Section 203(d)(2)(D-7) for interest
3 paid, accrued, or incurred, directly or indirectly, to
4 the same foreign person; and

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

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

19 (1) In general. Subject to the provisions of paragraph
20 (2) and subsection (b) (3), for purposes of this Section
21 and Section 803(e), a taxpayer's gross income, adjusted
22 gross income, or taxable income for the taxable year shall
23 mean the amount of gross income, adjusted gross income or
24 taxable income properly reportable for federal income tax
25 purposes for the taxable year under the provisions of the
26 Internal Revenue Code. Taxable income may be less than
27 zero. However, for taxable years ending on or after
28 December 31, 1986, net operating loss carryforwards from
29 taxable years ending prior to December 31, 1986, may not
30 exceed the sum of federal taxable income for the taxable
31 year before net operating loss deduction, plus the excess
32 of addition modifications over subtraction modifications
33 for the taxable year. For taxable years ending prior to

1 December 31, 1986, taxable income may never be an amount in
2 excess of the net operating loss for the taxable year as
3 defined in subsections (c) and (d) of Section 172 of the
4 Internal Revenue Code, provided that when taxable income of
5 a corporation (other than a Subchapter S corporation),
6 trust, or estate is less than zero and addition
7 modifications, other than those provided by subparagraph
8 (E) of paragraph (2) of subsection (b) for corporations or
9 subparagraph (E) of paragraph (2) of subsection (c) for
10 trusts and estates, exceed subtraction modifications, an
11 addition modification must be made under those
12 subparagraphs for any other taxable year to which the
13 taxable income less than zero (net operating loss) is
14 applied under Section 172 of the Internal Revenue Code or
15 under subparagraph (E) of paragraph (2) of this subsection
16 (e) applied in conjunction with Section 172 of the Internal
17 Revenue Code.

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

21 (A) Certain life insurance companies. In the case
22 of a life insurance company subject to the tax imposed
23 by Section 801 of the Internal Revenue Code, life
24 insurance company taxable income, plus the amount of
25 distribution from pre-1984 policyholder surplus
26 accounts as calculated under Section 815a of the
27 Internal Revenue Code;

28 (B) Certain other insurance companies. In the case
29 of mutual insurance companies subject to the tax
30 imposed by Section 831 of the Internal Revenue Code,
31 insurance company taxable income;

32 (C) Regulated investment companies. In the case of
33 a regulated investment company subject to the tax
34 imposed by Section 852 of the Internal Revenue Code,

1 investment company taxable income;

2 (D) Real estate investment trusts. In the case of a
3 real estate investment trust subject to the tax imposed
4 by Section 857 of the Internal Revenue Code, real
5 estate investment trust taxable income;

6 (E) Consolidated corporations. In the case of a
7 corporation which is a member of an affiliated group of
8 corporations filing a consolidated income tax return
9 for the taxable year for federal income tax purposes,
10 taxable income determined as if such corporation had
11 filed a separate return for federal income tax purposes
12 for the taxable year and each preceding taxable year
13 for which it was a member of an affiliated group. For
14 purposes of this subparagraph, the taxpayer's separate
15 taxable income shall be determined as if the election
16 provided by Section 243(b) (2) of the Internal Revenue
17 Code had been in effect for all such years;

18 (F) Cooperatives. In the case of a cooperative
19 corporation or association, the taxable income of such
20 organization determined in accordance with the
21 provisions of Section 1381 through 1388 of the Internal
22 Revenue Code;

23 (G) Subchapter S corporations. In the case of: (i)
24 a Subchapter S corporation for which there is in effect
25 an election for the taxable year under Section 1362 of
26 the Internal Revenue Code, the taxable income of such
27 corporation determined in accordance with Section
28 1363(b) of the Internal Revenue Code, except that
29 taxable income shall take into account those items
30 which are required by Section 1363(b)(1) of the
31 Internal Revenue Code to be separately stated; and (ii)
32 a Subchapter S corporation for which there is in effect
33 a federal election to opt out of the provisions of the
34 Subchapter S Revision Act of 1982 and have applied

1 instead the prior federal Subchapter S rules as in
2 effect on July 1, 1982, the taxable income of such
3 corporation determined in accordance with the federal
4 Subchapter S rules as in effect on July 1, 1982; and

5 (H) Partnerships. In the case of a partnership,
6 taxable income determined in accordance with Section
7 703 of the Internal Revenue Code, except that taxable
8 income shall take into account those items which are
9 required by Section 703(a)(1) to be separately stated
10 but which would be taken into account by an individual
11 in calculating his taxable income.

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

29 (f) Valuation limitation amount.

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

33 (A) The sum of the pre-August 1, 1969 appreciation
34 amounts (to the extent consisting of gain reportable

1 under the provisions of Section 1245 or 1250 of the
2 Internal Revenue Code) for all property in respect of
3 which such gain was reported for the taxable year; plus

4 (B) The lesser of (i) the sum of the pre-August 1,
5 1969 appreciation amounts (to the extent consisting of
6 capital gain) for all property in respect of which such
7 gain was reported for federal income tax purposes for
8 the taxable year, or (ii) the net capital gain for the
9 taxable year, reduced in either case by any amount of
10 such gain included in the amount determined under
11 subsection (a) (2) (F) or (c) (2) (H).

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

13 (A) If the fair market value of property referred
14 to in paragraph (1) was readily ascertainable on August
15 1, 1969, the pre-August 1, 1969 appreciation amount for
16 such property is the lesser of (i) the excess of such
17 fair market value over the taxpayer's basis (for
18 determining gain) for such property on that date
19 (determined under the Internal Revenue Code as in
20 effect on that date), or (ii) the total gain realized
21 and reportable for federal income tax purposes in
22 respect of the sale, exchange or other disposition of
23 such property.

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

1 (C) The Department shall prescribe such
2 regulations as may be necessary to carry out the
3 purposes of this paragraph.

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

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

16 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
17 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
18 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
19 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

20 (35 ILCS 5/216 new)

21 Sec. 216. Lifelong learning account contributions credit.

22 (a) For taxable years beginning on or after January 1,
23 2006, a taxpayer who is a participating employer under the
24 Lifelong Learning Act is entitled to a credit against the taxes
25 imposed under subsections (a) and (b) of Section 201 of this
26 Act in an amount equal to the amount that the taxpayer
27 contributed to each lifelong learning account established
28 under the taxpayer's accredited lifelong learning plan, but not
29 to exceed \$500 per taxable year for any one account.

30 (b) If the taxpayer is a partnership or Subchapter S
31 corporation, the credit is allowed to the partners or

1 shareholders in accordance with the determination of income and
2 distributive share of income under Sections 702 and 704 and
3 Subchapter S of the Internal Revenue Code.

4 (c) The Department, in cooperation with the Department of
5 Commerce and Economic Opportunity, must adopt rules to enforce
6 and administer the provisions of this Section.

7 (d) The credit may not be carried forward or back. In no
8 event shall a credit under this Section reduce the taxpayer's
9 liability to less than zero.

10 (e) This Section is exempt from the provisions of Section
11 250 of this Act.

12 Section 999. Effective date. This Act takes effect upon
13 becoming law.".