

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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13 withdrawn by the taxpayer in the taxable year from a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

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

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

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

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

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

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

20 (G) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (FF) For taxable years ending on or after December
17 31, 2005 through taxable years ending on or before
18 December 30, 2010, an amount, not to exceed \$2,000,
19 equal to the burial expenses incurred during the
20 taxable year an individual taxpayer who pays the burial
21 expenses for a fetus for which a fetal death
22 certificate has been issued under Section 20 of the
23 Vital Records Act. The deduction under this
24 subparagraph may be taken by only one taxpayer with
25 respect to any one fetal death. The Department must
26 adopt rules to enforce and administer the provisions of
27 this subparagraph. Without limitation, these rules
28 must set forth allowable burial expenses and
29 requirements for the documentation of the burial
30 expenses.

31 (b) Corporations.

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

35 (2) Modifications. The taxable income referred to in

1 paragraph (1) shall be modified by adding thereto the sum
2 of the following amounts:

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

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

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

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

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

35 (i) the addition modification relating to the
36 net operating loss carried back or forward to the

1 taxable year from any taxable year ending prior to
2 December 31, 1986 shall be reduced by the amount of
3 addition modification under this subparagraph (E)
4 which related to that net operating loss and which
5 was taken into account in calculating the base
6 income of an earlier taxable year, and

7 (ii) 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 not exceed the amount of
11 such carryback or carryforward;

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

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

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

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

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

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

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

26 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

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

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

36 (E-13) For taxable years ending on or after

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

1 similar types of intangible assets.

2 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

15 (H) In the case of a regulated investment company,
16 an amount equal to the amount of exempt interest
17 dividends as defined in subsection (b) (5) of Section
18 852 of the Internal Revenue Code, paid to shareholders
19 for the taxable year;

20 (I) With the exception of any amounts subtracted
21 under subparagraph (J), an amount equal to the sum of
22 all amounts disallowed as deductions by (i) Sections
23 171(a) (2), and 265(a) (2) and amounts disallowed as
24 interest expense by Section 291(a) (3) of the Internal
25 Revenue Code, as now or hereafter amended, and all
26 amounts of expenses allocable to interest and
27 disallowed as deductions by Section 265(a) (1) of the
28 Internal Revenue Code, as now or hereafter amended; and
29 (ii) for taxable years ending on or after August 13,
30 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and
31 832(b) (5) (B) (i) of the Internal Revenue Code; the
32 provisions of this subparagraph are exempt from the
33 provisions of Section 250;

34 (J) An amount equal to all amounts included in such
35 total which are exempt from taxation by this State
36 either by reason of its statutes or Constitution or by

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

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

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

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

1 Zone. The subtraction modification available to
2 taxpayer in any year under this subsection shall be
3 that portion of the total interest paid by the borrower
4 with respect to such loan attributable to the eligible
5 property as calculated under the previous sentence;

6 (M-1) For any taxpayer that is a financial
7 organization within the meaning of Section 304(c) of
8 this Act, an amount included in such total as interest
9 income from a loan or loans made by such taxpayer to a
10 borrower, to the extent that such a loan is secured by
11 property which is eligible for the High Impact Business
12 Investment Credit. To determine the portion of a loan
13 or loans that is secured by property eligible for a
14 Section 201(h) investment credit to the borrower, the
15 entire principal amount of the loan or loans between
16 the taxpayer and the borrower should be divided into
17 the basis of the Section 201(h) investment credit
18 property which secures the loan or loans, using for
19 this purpose the original basis of such property on the
20 date that it was placed in service in a federally
21 designated Foreign Trade Zone or Sub-Zone located in
22 Illinois. No taxpayer that is eligible for the
23 deduction provided in subparagraph (M) of paragraph
24 (2) of this subsection shall be eligible for the
25 deduction provided under this subparagraph (M-1). The
26 subtraction modification available to taxpayers in any
27 year under this subsection shall be that portion of the
28 total interest paid by the borrower with respect to
29 such loan attributable to the eligible property as
30 calculated under the previous sentence;

31 (N) Two times any contribution made during the
32 taxable year to a designated zone organization to the
33 extent that the contribution (i) qualifies as a
34 charitable contribution under subsection (c) of
35 Section 170 of the Internal Revenue Code and (ii) must,
36 by its terms, be used for a project approved by the

1 Department of Commerce and Economic Opportunity under
2 Section 11 of the Illinois Enterprise Zone Act;

3 (O) An amount equal to: (i) 85% for taxable years
4 ending on or before December 31, 1992, or, a percentage
5 equal to the percentage allowable under Section
6 243(a)(1) of the Internal Revenue Code of 1986 for
7 taxable years ending after December 31, 1992, of the
8 amount by which dividends included in taxable income
9 and received from a corporation that is not created or
10 organized under the laws of the United States or any
11 state or political subdivision thereof, including, for
12 taxable years ending on or after December 31, 1988,
13 dividends received or deemed received or paid or deemed
14 paid under Sections 951 through 964 of the Internal
15 Revenue Code, exceed the amount of the modification
16 provided under subparagraph (G) of paragraph (2) of
17 this subsection (b) which is related to such dividends;
18 plus (ii) 100% of the amount by which dividends,
19 included in taxable income and received, including,
20 for taxable years ending on or after December 31, 1988,
21 dividends received or deemed received or paid or deemed
22 paid under Sections 951 through 964 of the Internal
23 Revenue Code, from any such corporation specified in
24 clause (i) that would but for the provisions of Section
25 1504 (b) (3) of the Internal Revenue Code be treated as
26 a member of the affiliated group which includes the
27 dividend recipient, exceed the amount of the
28 modification provided under subparagraph (G) of
29 paragraph (2) of this subsection (b) which is related
30 to such dividends;

31 (P) An amount equal to any contribution made to a
32 job training project established pursuant to the Tax
33 Increment Allocation Redevelopment Act;

34 (Q) An amount equal to the amount of the deduction
35 used to compute the federal income tax credit for
36 restoration of substantial amounts held under claim of

1 right for the taxable year pursuant to Section 1341 of
2 the Internal Revenue Code of 1986;

3 (R) In the case of an attorney-in-fact with respect
4 to whom an interinsurer or a reciprocal insurer has
5 made the election under Section 835 of the Internal
6 Revenue Code, 26 U.S.C. 835, an amount equal to the
7 excess, if any, of the amounts paid or incurred by that
8 interinsurer or reciprocal insurer in the taxable year
9 to the attorney-in-fact over the deduction allowed to
10 that interinsurer or reciprocal insurer with respect
11 to the attorney-in-fact under Section 835(b) of the
12 Internal Revenue Code for the taxable year;

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

23 (T) For taxable years 2001 and thereafter, for the
24 taxable year in which the bonus depreciation deduction
25 (30% of the adjusted basis of the qualified property)
26 is taken on the taxpayer's federal income tax return
27 under subsection (k) of Section 168 of the Internal
28 Revenue Code and for each applicable taxable year
29 thereafter, an amount equal to "x", where:

30 (1) "y" equals the amount of the depreciation
31 deduction taken for the taxable year on the
32 taxpayer's federal income tax return on property
33 for which the bonus depreciation deduction (30% of
34 the adjusted basis of the qualified property) was
35 taken in any year under subsection (k) of Section
36 168 of the Internal Revenue Code, but not including

1 the bonus depreciation deduction; and

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

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

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

18 The taxpayer is allowed to take the deduction under
19 this subparagraph only once with respect to any one
20 piece of property;

21 (V) 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-12),
27 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
28 the amount of such 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-13), 203(c)(2)(G-13), or
35 203(d)(2)(D-8), but not to exceed the amount of such
36 addition modification;

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

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

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

30 (c) Trusts and estates.

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

34 (2) Modifications. Subject to the provisions of
35 paragraph (3), the taxable income referred to in paragraph

1 (1) shall be modified by adding thereto the sum of the
2 following amounts:

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

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

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

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

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

35 (G-11) If the taxpayer reports a capital gain or
36 loss on the taxpayer's federal income tax return for

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

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

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

31 This paragraph shall not apply to the following:

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

1 income with respect to such interest; or

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

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

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

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

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

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

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

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

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

7 This paragraph shall not apply to the following:

8 (i) any item of intangible expenses or costs
9 paid, accrued, or incurred, directly or
10 indirectly, from a transaction with 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 item; or

15 (ii) any item of intangible expense or cost
16 paid, accrued, or incurred, directly or
17 indirectly, if the taxpayer can establish, based
18 on a 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 intangible expense or cost to a person that is
23 not a related member, and

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

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

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

26 (I) The valuation limitation amount;

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

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

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

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

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

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

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

36 (P) An amount equal to the amount of the deduction

1 used to compute the federal income tax credit for
2 restoration of substantial amounts held under claim of
3 right for the taxable year pursuant to Section 1341 of
4 the Internal Revenue Code of 1986;

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

1 of Section 250;

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

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

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

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

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

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

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

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

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

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

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

5 (3) Limitation. The amount of any modification
6 otherwise required under this subsection shall, under
7 regulations prescribed by the Department, be adjusted by
8 any amounts included therein which were properly paid,
9 credited, or required to be distributed, or permanently set
10 aside for charitable purposes pursuant to Internal Revenue
11 Code Section 642(c) during the taxable year.

12 (d) Partnerships.

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

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

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

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

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

29 (D) An amount equal to the amount of the capital
30 gain deduction allowable under the Internal Revenue
31 Code, to the extent deducted from gross income in the
32 computation of taxable income;

33 (D-5) For taxable years 2001 and thereafter, an
34 amount equal to the bonus depreciation deduction (30%
35 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;

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

35 This paragraph shall not apply to the following:

36 (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
35 304(f).

36 Nothing in this subsection shall preclude the

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

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

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

11 This paragraph shall not apply to the following:

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

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

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

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

35 (iii) any item of intangible expense or cost
36 paid, accrued, or incurred, directly or

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

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

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

19 (E) The valuation limitation amount;

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

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

33 (H) Any income of the partnership which
34 constitutes personal service income as defined in
35 Section 1348 (b) (1) of the Internal Revenue Code (as
36 in effect December 31, 1981) or a reasonable allowance

1 for compensation paid or accrued for services rendered
2 by partners to the partnership, whichever is greater;

3 (I) An amount equal to all amounts of income
4 distributable to an entity subject to the Personal
5 Property Tax Replacement Income Tax imposed by
6 subsections (c) and (d) of Section 201 of this Act
7 including amounts distributable to organizations
8 exempt from federal income tax by reason of Section
9 501(a) of the Internal Revenue Code;

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

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

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

33 (M) An amount equal to those dividends included in
34 such total that were paid by a corporation that
35 conducts business operations in a federally designated
36 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;

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

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

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

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

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

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

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

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

1 modifications, other than those provided by subparagraph
2 (E) of paragraph (2) of subsection (b) for corporations or
3 subparagraph (E) of paragraph (2) of subsection (c) for
4 trusts and estates, exceed subtraction modifications, an
5 addition modification must be made under those
6 subparagraphs for any other taxable year to which the
7 taxable income less than zero (net operating loss) is
8 applied under Section 172 of the Internal Revenue Code or
9 under subparagraph (E) of paragraph (2) of this subsection
10 (e) applied in conjunction with Section 172 of the Internal
11 Revenue Code.

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

15 (A) Certain life insurance companies. In the case
16 of a life insurance company subject to the tax imposed
17 by Section 801 of the Internal Revenue Code, life
18 insurance company taxable income, plus the amount of
19 distribution from pre-1984 policyholder surplus
20 accounts as calculated under Section 815a of the
21 Internal Revenue Code;

22 (B) Certain other insurance companies. In the case
23 of mutual insurance companies subject to the tax
24 imposed by Section 831 of the Internal Revenue Code,
25 insurance company taxable income;

26 (C) Regulated investment companies. In the case of
27 a regulated investment company subject to the tax
28 imposed by Section 852 of the Internal Revenue Code,
29 investment company taxable income;

30 (D) Real estate investment trusts. In the case of a
31 real estate investment trust subject to the tax imposed
32 by Section 857 of the Internal Revenue Code, real
33 estate investment trust taxable income;

34 (E) Consolidated corporations. In the case of a
35 corporation which is a member of an affiliated group of
36 corporations filing a consolidated income tax return

1 for the taxable year for federal income tax purposes,
2 taxable income determined as if such corporation had
3 filed a separate return for federal income tax purposes
4 for the taxable year and each preceding taxable year
5 for which it was a member of an affiliated group. For
6 purposes of this subparagraph, the taxpayer's separate
7 taxable income shall be determined as if the election
8 provided by Section 243(b) (2) of the Internal Revenue
9 Code had been in effect for all such years;

10 (F) Cooperatives. In the case of a cooperative
11 corporation or association, the taxable income of such
12 organization determined in accordance with the
13 provisions of Section 1381 through 1388 of the Internal
14 Revenue Code;

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

31 (H) Partnerships. In the case of a partnership,
32 taxable income determined in accordance with Section
33 703 of the Internal Revenue Code, except that taxable
34 income shall take into account those items which are
35 required by Section 703(a)(1) to be separately stated
36 but which would be taken into account by an individual

1 in calculating his taxable income.

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

19 (f) Valuation limitation amount.

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

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

28 (B) The lesser of (i) the sum of the pre-August 1,
29 1969 appreciation amounts (to the extent consisting of
30 capital gain) for all property in respect of which such
31 gain was reported for federal income tax purposes for
32 the taxable year, or (ii) the net capital gain for the
33 taxable year, reduced in either case by any amount of
34 such gain included in the amount determined under
35 subsection (a) (2) (F) or (c) (2) (H).

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

1 (A) If the fair market value of property referred
2 to in paragraph (1) was readily ascertainable on August
3 1, 1969, the pre-August 1, 1969 appreciation amount for
4 such property is the lesser of (i) the excess of such
5 fair market value over the taxpayer's basis (for
6 determining gain) for such property on that date
7 (determined under the Internal Revenue Code as in
8 effect on that date), or (ii) the total gain realized
9 and reportable for federal income tax purposes in
10 respect of the sale, exchange or other disposition of
11 such property.

12 (B) If the fair market value of property referred
13 to in paragraph (1) was not readily ascertainable on
14 August 1, 1969, the pre-August 1, 1969 appreciation
15 amount for such property is that amount which bears the
16 same ratio to the total gain reported in respect of the
17 property for federal income tax purposes for the
18 taxable year, as the number of full calendar months in
19 that part of the taxpayer's holding period for the
20 property ending July 31, 1969 bears to the number of
21 full calendar months in the taxpayer's entire holding
22 period for the property.

23 (C) The Department shall prescribe such
24 regulations as may be necessary to carry out the
25 purposes of this paragraph.

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

29 (h) Legislative intention. Except as expressly provided by
30 this Section there shall be no modifications or limitations on
31 the amounts of income, gain, loss or deduction taken into
32 account in determining gross income, adjusted gross income or
33 taxable income for federal income tax purposes for the taxable
34 year, or in the amount of such items entering into the

1 computation of base income and net income under this Act for
2 such taxable year, whether in respect of property values as of
3 August 1, 1969 or otherwise.

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

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.