



Sen. John M. Sullivan

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1 AMENDMENT TO SENATE BILL 1865

2 AMENDMENT NO. _____. Amend Senate Bill 1865 by by
3 replacing everything after the enacting clause with the
4 following:

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

7 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

8 Sec. 203. Base income defined.

9 (a) Individuals.

10 (1) In general. In the case of an individual, base
11 income means an amount equal to the taxpayer's adjusted
12 gross income for the taxable year as modified by paragraph
13 (2).

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

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

24 (B) An amount equal to the amount of tax imposed by

1 this Act to the extent deducted from gross income in
2 the computation of adjusted gross income for the
3 taxable year;

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

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

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22 withdrawn by the taxpayer in the taxable year from a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

28 (D-10) For taxable years ending after December 31,
29 1997, an amount equal to any eligible remediation costs
30 that the individual deducted in computing adjusted
31 gross income and for which the individual claims a
32 credit under subsection (l) of Section 201;

33 (D-15) For taxable years 2001 and thereafter, an
34 amount equal to the bonus depreciation deduction (30%

1 of the adjusted basis of the qualified property) taken
2 on the taxpayer's federal income tax return for the
3 taxable year under subsection (k) of Section 168 of the
4 Internal Revenue Code;

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

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

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

1 whom the interest was paid, accrued, or incurred.

2 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

18 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

30 (F) An amount equal to all amounts included in such
31 total pursuant to the provisions of Sections 402(a),
32 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
33 Internal Revenue Code, or included in such total as
34 distributions under the provisions of any retirement

1 or disability plan for employees of any governmental
2 agency or unit, or retirement payments to retired
3 partners, which payments are excluded in computing net
4 earnings from self employment by Section 1402 of the
5 Internal Revenue Code and regulations adopted pursuant
6 thereto;

7 (G) The valuation limitation amount;

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

11 (I) An amount equal to all amounts included in such
12 total pursuant to the provisions of Section 111 of the
13 Internal Revenue Code as a recovery of items previously
14 deducted from adjusted gross income in the computation
15 of taxable income;

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

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

31 (L) For taxable years ending after December 31,
32 1983, an amount equal to all social security benefits
33 and railroad retirement benefits included in such
34 total pursuant to Sections 72(r) and 86 of the Internal

1 Revenue Code;

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

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

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

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

32 (Q) An amount equal to any amounts included in such
33 total, received by the taxpayer as an acceleration in
34 the payment of life, endowment or annuity benefits in

1 advance of the time they would otherwise be payable as
2 an indemnity for a terminal illness;

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

5 (S) An amount, to the extent included in adjusted
6 gross income, equal to the amount of a contribution
7 made in the taxable year on behalf of the taxpayer to a
8 medical care savings account established under the
9 Medical Care Savings Account Act or the Medical Care
10 Savings Account Act of 2000 to the extent the
11 contribution is accepted by the account administrator
12 as provided in that Act;

13 (T) An amount, to the extent included in adjusted
14 gross income, equal to the amount of interest earned in
15 the taxable year on a medical care savings account
16 established under the Medical Care Savings Account Act
17 or the Medical Care Savings Account Act of 2000 on
18 behalf of the taxpayer, other than interest added
19 pursuant to item (D-5) of this paragraph (2);

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

26 (V) Beginning with tax years ending on or after
27 December 31, 1995 and ending with tax years ending on
28 or before December 31, 2004, an amount equal to the
29 amount paid by a taxpayer who is a self-employed
30 taxpayer, a partner of a partnership, or a shareholder
31 in a Subchapter S corporation for health insurance or
32 long-term care insurance for that taxpayer or that
33 taxpayer's spouse or dependents, to the extent that the
34 amount paid for that health insurance or long-term care

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

19 (W) For taxable years beginning on or after January
20 1, 1998, all amounts included in the taxpayer's federal
21 gross income in the taxable year from amounts converted
22 from a regular IRA to a Roth IRA. This paragraph is
23 exempt from the provisions of Section 250;

24 (X) For taxable year 1999 and thereafter, an amount
25 equal to the amount of any (i) distributions, to the
26 extent includible in gross income for federal income
27 tax purposes, made to the taxpayer because of his or
28 her status as a victim of persecution for racial or
29 religious reasons by Nazi Germany or any other Axis
30 regime or as an heir of the victim and (ii) items of
31 income, to the extent includible in gross income for
32 federal income tax purposes, attributable to, derived
33 from or in any way related to assets stolen from,
34 hidden from, or otherwise lost to a victim of

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

23 (Y) For taxable years beginning on or after January
24 1, 2002 and ending on or before December 31, 2004,
25 moneys contributed in the taxable year to a College
26 Savings Pool account under Section 16.5 of the State
27 Treasurer Act, except that amounts excluded from gross
28 income under Section 529(c)(3)(C)(i) of the Internal
29 Revenue Code shall not be considered moneys
30 contributed under this subparagraph (Y). For taxable
31 years beginning on or after January 1, 2005, a maximum
32 of \$10,000 contributed in the taxable year to (i) a
33 College Savings Pool account under Section 16.5 of the
34 State Treasurer Act or (ii) the Illinois Prepaid

1 Tuition Trust Fund, except that amounts excluded from
2 gross income under Section 529(c)(3)(C)(i) of the
3 Internal Revenue Code shall not be considered moneys
4 contributed under this subparagraph (Y). This
5 subparagraph (Y) is exempt from the provisions of
6 Section 250;

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

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

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

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

31 (AA) If the taxpayer reports a capital gain or loss
32 on the taxpayer's federal income tax return for the
33 taxable year based on a sale or transfer of property
34 for which the taxpayer was required in any taxable year

1 to make an addition modification under subparagraph
2 (D-15), then an amount equal to that addition
3 modification.

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

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

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

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

1 taxable year under Section 203(a)(2)(D-17) for
2 interest paid, accrued, or incurred, directly or
3 indirectly, to the same foreign person; ~~and~~

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

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

32 (b) Corporations.

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

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

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

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

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

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

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

28 (E) For taxable years in which a net operating loss
29 carryback or carryforward from a taxable year ending
30 prior to December 31, 1986 is an element of taxable
31 income under paragraph (1) of subsection (e) or
32 subparagraph (E) of paragraph (2) of subsection (e),
33 the amount by which addition modifications other than
34 those provided by this subparagraph (E) exceeded

1 subtraction modifications in such earlier taxable
2 year, with the following limitations applied in the
3 order that they are listed:

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

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

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

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

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

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

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

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

33 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

1 304(f).

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

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

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

15 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (L) An amount equal to those dividends included in
31 such total that were paid by a corporation that
32 conducts business operations in a federally designated
33 Foreign Trade Zone or Sub-Zone and that is designated a
34 High Impact Business located in Illinois; provided

1 that dividends eligible for the deduction provided in
2 subparagraph (K) of paragraph 2 of this subsection
3 shall not be eligible for the deduction provided under
4 this subparagraph (L);

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

25 (M-1) For any taxpayer that is a financial
26 organization within the meaning of Section 304(c) of
27 this Act, an amount included in such total as interest
28 income from a loan or loans made by such taxpayer to a
29 borrower, to the extent that such a loan is secured by
30 property which is eligible for the High Impact Business
31 Investment Credit. To determine the portion of a loan
32 or loans that is secured by property eligible for a
33 Section 201(h) investment credit to the borrower, the
34 entire principal amount of the loan or loans between

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

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

24 (O) An amount equal to: (i) 85% for taxable years
25 ending on or before December 31, 1992, or, a percentage
26 equal to the percentage allowable under Section
27 243(a)(1) of the Internal Revenue Code of 1986 for
28 taxable years ending after December 31, 1992, of the
29 amount by which dividends included in taxable income
30 and received from a corporation that is not created or
31 organized under the laws of the United States or any
32 state or political subdivision thereof, including, for
33 taxable years ending on or after December 31, 1988,
34 dividends received or deemed received or paid or deemed

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

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

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

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

1 Internal Revenue Code for the taxable year;

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

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

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

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

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

1 (k) of Section 168 of the Internal Revenue Code;

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

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

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

28 (W) An amount equal to the interest income taken
29 into account for the taxable year (net of the
30 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

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

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

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

23 (c) Trusts and estates.

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

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

31 (A) An amount equal to all amounts paid or accrued
32 to the taxpayer as interest or dividends during the
33 taxable year to the extent excluded from gross income

1 in the computation of taxable income;

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

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

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

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

33 (ii) the addition modification relating to the
34 net operating loss carried back or forward to the

1 taxable year from any taxable year ending prior to
2 December 31, 1986 shall not exceed the amount of
3 such carryback or carryforward;

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

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

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

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

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

32 (G-11) If the taxpayer reports a capital gain or
33 loss on the taxpayer's federal income tax return for
34 the taxable year based on a sale or transfer of

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

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

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

30 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

33 Nothing in this subsection shall preclude the
34 Director from making any other adjustment

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

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

12 This paragraph shall not apply to the following:

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

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

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

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

1 or

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

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

20 and by deducting from the total so obtained the sum of the
21 following amounts:

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

33 (I) The valuation limitation amount;

34 (J) An amount equal to the amount of any tax

1 imposed by this Act which was refunded to the taxpayer
2 and included in such total for the taxable year;

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

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

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

33 (N) An amount equal to any contribution made to a
34 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (d) Partnerships.

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

33 (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 or dividends during the
5 taxable year to the extent excluded from gross income
6 in the computation of taxable income;

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

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

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

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

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

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

1 (D-7) For taxable years ending on or after December
2 31, 2004, an amount equal to the amount otherwise
3 allowed as a deduction in computing base income for
4 interest paid, accrued, or incurred, directly or
5 indirectly, to a foreign person who would be a member
6 of the same unitary business group but for the fact the
7 foreign person's business activity outside the United
8 States is 80% or more of the foreign person's total
9 business activity. The addition modification required
10 by this subparagraph shall be reduced to the extent
11 that dividends were included in base income of the
12 unitary group for the same taxable year and received by
13 the 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 interest was paid, accrued, or incurred.

20 This paragraph shall not apply to the following:

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

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

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

1 member, and

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

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

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

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

32 (D-8) For taxable years ending on or after December
33 31, 2004, an amount equal to the amount of intangible
34 expenses and costs otherwise allowed as a deduction in

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

1 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);

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

10 and by deducting from the total so obtained the following
11 amounts:

12 (E) The valuation limitation amount;

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

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

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

32 (I) An amount equal to all amounts of income
33 distributable to an entity subject to the Personal
34 Property Tax Replacement Income Tax imposed by

1 subsections (c) and (d) of Section 201 of this Act
2 including amounts distributable to organizations
3 exempt from federal income tax by reason of Section
4 501(a) of the Internal Revenue Code;

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

18 (K) 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 enacted by the 82nd General Assembly, and conducts
23 substantially all of its operations in an Enterprise
24 Zone or Zones;

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

28 (M) An amount equal to those dividends included in
29 such total that were paid by a corporation that
30 conducts business operations in a federally designated
31 Foreign Trade Zone or Sub-Zone and that is designated a
32 High Impact Business located in Illinois; provided
33 that dividends eligible for the deduction provided in
34 subparagraph (K) of paragraph (2) of this subsection

1 shall not be eligible for the deduction provided under
2 this subparagraph (M);

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

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

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

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

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

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

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

1 the same foreign person; and

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

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

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

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

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

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

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

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

33 (D) Real estate investment trusts. In the case of a
34 real estate investment trust subject to the tax imposed

1 by Section 857 of the Internal Revenue Code, real
2 estate investment trust taxable income;

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

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

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

1 Subchapter S rules as in effect on July 1, 1982; and

2 (H) Partnerships. In the case of a partnership,
3 taxable income determined in accordance with Section
4 703 of the Internal Revenue Code, except that taxable
5 income shall take into account those items which are
6 required by Section 703(a)(1) to be separately stated
7 but which would be taken into account by an individual
8 in calculating his taxable income.

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

26 (f) Valuation limitation amount.

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

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

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

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

10 (A) If the fair market value of property referred
11 to in paragraph (1) was readily ascertainable on August
12 1, 1969, the pre-August 1, 1969 appreciation amount for
13 such property is the lesser of (i) the excess of such
14 fair market value over the taxpayer's basis (for
15 determining gain) for such property on that date
16 (determined under the Internal Revenue Code as in
17 effect on that date), or (ii) the total gain realized
18 and reportable for federal income tax purposes in
19 respect of the sale, exchange or other disposition of
20 such property.

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

32 (C) The Department shall prescribe such
33 regulations as may be necessary to carry out the
34 purposes of this paragraph.

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

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

13 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
14 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
15 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
16 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."