

# HB0338



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0338

Introduced 1/22/2007, by Rep. Shane Cultra

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. For taxable years ending on or after December 31, 2007, allows a deduction of up to \$10,000 if the taxpayer, while living, donates one or more of his or her human organs to another human being for human organ transplantation. Provides that the deduction may be claimed only once and for only unreimbursed travel and lodging expenses and lost wages incurred by the claimant and related to the claimant's organ donation. Effective immediately.

LRB095 03924 BDD 23957 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning taxes.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

1 20 of the Medical Care Savings Account Act of 2000;

2 (D-10) For taxable years ending after December 31,  
3 1997, an amount equal to any eligible remediation costs  
4 that the individual deducted in computing adjusted  
5 gross income and for which the individual claims a  
6 credit under subsection (l) of Section 201;

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

12 (D-16) If the taxpayer sells, transfers, abandons,  
13 or otherwise disposes of property for which the  
14 taxpayer was required in any taxable year to make an  
15 addition modification under subparagraph (D-15), then  
16 an amount equal to the aggregate amount of the  
17 deductions taken in all taxable years under  
18 subparagraph (Z) with respect to that property.

19 If the taxpayer continues to own property through  
20 the last day of the last tax year for which the  
21 taxpayer may claim a depreciation deduction for  
22 federal income tax purposes and for which the taxpayer  
23 was allowed in any taxable year to make a subtraction  
24 modification under subparagraph (Z), then an amount  
25 equal to that subtraction modification.

26 The taxpayer is required to make the addition

1 modification under this subparagraph only once with  
2 respect to any one piece of property;

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

22 This paragraph shall not apply to the following:

23 (i) an item of interest paid, accrued, or  
24 incurred, directly or indirectly, to a foreign  
25 person who is subject in a foreign country or  
26 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

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

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

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

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

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

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

18          (D-20) For taxable years beginning on or after  
19          January 1, 2002, in the case of a distribution from a  
20          qualified tuition program under Section 529 of the  
21          Internal Revenue Code, other than (i) a distribution  
22          from a College Savings Pool created under Section 16.5  
23          of the State Treasurer Act or (ii) a distribution from  
24          the Illinois Prepaid Tuition Trust Fund, an amount  
25          equal to the amount excluded from gross income under  
26          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

1 being a member of the Illinois National Guard. The  
2 provisions of this amendatory Act of the 92nd General  
3 Assembly are exempt from the provisions of Section 250;

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

15 (G) The valuation limitation amount;

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

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

24 (J) 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

1 zones created under the Illinois Enterprise Zone Act or  
2 a River Edge Redevelopment Zone or zones created under  
3 the River Edge Redevelopment Zone Act, and conducts  
4 substantially all of its operations in an Enterprise  
5 Zone or zones or a River Edge Redevelopment Zone or  
6 zones. This subparagraph (J) is exempt from the  
7 provisions of Section 250;

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

17 (L) For taxable years ending after December 31,  
18 1983, an amount equal to all social security benefits  
19 and railroad retirement benefits included in such  
20 total pursuant to Sections 72(r) and 86 of the Internal  
21 Revenue Code;

22 (M) With the exception of any amounts subtracted  
23 under subparagraph (N), an amount equal to the sum of  
24 all amounts disallowed as deductions by (i) Sections  
25 171(a) (2), and 265(2) of the Internal Revenue Code of  
26 1954, as now or hereafter amended, and all amounts of

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

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

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

21 (P) 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 (Q) An amount equal to any amounts included in such

1 total, received by the taxpayer as an acceleration in  
2 the payment of life, endowment or annuity benefits in  
3 advance of the time they would otherwise be payable as  
4 an indemnity for a terminal illness;

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

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

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

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

1 Act during the taxpayer's taxable years 1992 and 1993;

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



1 213 of the Internal Revenue Code of 1986 not actually  
2 deducted on the taxpayer's federal income tax return;

3 (W) For taxable years beginning on or after January  
4 1, 1998, all amounts included in the taxpayer's federal  
5 gross income in the taxable year from amounts converted  
6 from a regular IRA to a Roth IRA. This paragraph is  
7 exempt from the provisions of Section 250;

8 (X) For taxable year 1999 and thereafter, an amount  
9 equal to the amount of any (i) distributions, to the  
10 extent includible in gross income for federal income  
11 tax purposes, made to the taxpayer because of his or  
12 her status as a victim of persecution for racial or  
13 religious reasons by Nazi Germany or any other Axis  
14 regime or as an heir of the victim and (ii) items of  
15 income, to the extent includible in gross income for  
16 federal income tax purposes, attributable to, derived  
17 from or in any way related to assets stolen from,  
18 hidden from, or otherwise lost to a victim of  
19 persecution for racial or religious reasons by Nazi  
20 Germany or any other Axis regime immediately prior to,  
21 during, and immediately after World War II, including,  
22 but not limited to, interest on the proceeds receivable  
23 as insurance under policies issued to a victim of  
24 persecution for racial or religious reasons by Nazi  
25 Germany or any other Axis regime by European insurance  
26 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 (Y) For taxable years beginning on or after January  
16 1, 2002 and ending on or before December 31, 2004,  
17 moneys contributed in the taxable year to a College  
18 Savings Pool account under Section 16.5 of the State  
19 Treasurer Act, except that amounts excluded from gross  
20 income under Section 529(c)(3)(C)(i) of the Internal  
21 Revenue Code shall not be considered moneys  
22 contributed under this subparagraph (Y). For taxable  
23 years beginning on or after January 1, 2005, a maximum  
24 of \$10,000 contributed in the taxable year to (i) a  
25 College Savings Pool account under Section 16.5 of the  
26 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 is taken on the taxpayer's federal income tax return  
10 under subsection (k) of Section 168 of the Internal  
11 Revenue Code and for each applicable taxable year  
12 thereafter, an amount equal to "x", where:

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

20 (2) for taxable years ending on or before  
21 December 31, 2005, "x" equals "y" multiplied by 30  
22 and then divided by 70 (or "y" multiplied by  
23 0.429); and

24 (3) for taxable years ending after December  
25 31, 2005:

26 (i) for property on which a bonus

1 depreciation deduction of 30% of the adjusted  
2 basis was taken, "x" equals "y" multiplied by  
3 30 and then divided by 70 (or "y" multiplied by  
4 0.429); and

5 (ii) for property on which a bonus  
6 depreciation deduction of 50% of the adjusted  
7 basis was taken, "x" equals "y" multiplied by  
8 1.0.

9 The aggregate amount deducted under this  
10 subparagraph in all taxable years for any one piece of  
11 property may not exceed the amount of the bonus  
12 depreciation deduction taken on that property on the  
13 taxpayer's federal income tax return under subsection  
14 (k) of Section 168 of the Internal Revenue Code. This  
15 subparagraph (Z) is exempt from the provisions of  
16 Section 250;

17 (AA) If the taxpayer sells, transfers, abandons,  
18 or otherwise disposes of property for which the  
19 taxpayer was required in any taxable year to make an  
20 addition modification under subparagraph (D-15), then  
21 an amount equal to that addition modification.

22 If the taxpayer continues to own property through  
23 the last day of the last tax year for which the  
24 taxpayer may claim a depreciation deduction for  
25 federal income tax purposes and for which the taxpayer  
26 was required in any taxable year to make an addition

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

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

6 This subparagraph (AA) is exempt from the  
7 provisions of Section 250;

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

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

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

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

26 (FF) For taxable years ending on or after December

1           31, 2007, subject to the conditions in this  
2           subparagraph, up to \$10,000, if the taxpayer, while  
3           living, donates one or more of his or her human organs  
4           to another human being for human organ  
5           transplantation. A deduction that is claimed under  
6           this subparagraph may be claimed for the taxable year  
7           in which the human organ transplantation occurs. An  
8           individual may claim the deduction under this  
9           subparagraph only once, and the deduction may be  
10           claimed for only the following unreimbursed expenses  
11           that are incurred by the claimant and related to the  
12           claimant's organ donation:

13                   (I) travel expenses;

14                   (II) lodging expenses; and

15                   (III) lost wages.

16           The deduction under this subparagraph may not be  
17           claimed by a part-year resident or a nonresident of  
18           this State. As used in this subparagraph, "human organ"  
19           means all or part of a liver, pancreas, kidney,  
20           intestine, lung, or bone marrow, and "human organ  
21           transplantation" means the medical procedure by which  
22           transfer of a human organ is made from the body of a  
23           person to the body of another person. This subparagraph  
24           is exempt from the provisions of Section 250 of the  
25           Act.

1 (b) Corporations.

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

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

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

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

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

26 (D) The amount of any net operating loss deduction



1 taken in arriving at taxable income, other than a net  
2 operating loss carried forward from a taxable year  
3 ending prior to December 31, 1986;

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

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

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

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

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

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

18          (E-11) If the taxpayer sells, transfers, abandons,  
19          or otherwise disposes of property for which the  
20          taxpayer was required in any taxable year to make an  
21          addition modification under subparagraph (E-10), then  
22          an amount equal to the aggregate amount of the  
23          deductions taken in all taxable years under  
24          subparagraph (T) with respect to that property.

25          If the taxpayer continues to own property through  
26          the last day of the last tax year for which the

1 taxpayer may claim a depreciation deduction for  
2 federal income tax purposes and for which the taxpayer  
3 was allowed in any taxable year to make a subtraction  
4 modification under subparagraph (T), then an amount  
5 equal to that subtraction modification.

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

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

1 same person to whom the interest was paid, accrued, or  
2 incurred.

3 This paragraph shall not apply to the following:

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

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

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

26 (iii) the taxpayer can establish, based on

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

6 (iv) an item of interest paid, accrued, or  
7 incurred, directly or indirectly, to 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 (E-13) For taxable years ending on or after  
24 December 31, 2004, an amount equal to the amount of  
25 intangible expenses and costs otherwise allowed as a  
26 deduction in computing base income, and that were paid,

1 accrued, or incurred, directly or indirectly, to a  
2 foreign person who would be a member of the same  
3 unitary business group but for the fact that the  
4 foreign person's business activity outside the United  
5 States is 80% or more of that person's total business  
6 activity. The addition modification required by this  
7 subparagraph shall be reduced to the extent that  
8 dividends were included in base income of the unitary  
9 group for the same taxable year and received by the  
10 taxpayer or by a member of the taxpayer's unitary  
11 business group (including amounts included in gross  
12 income pursuant to Sections 951 through 964 of the  
13 Internal Revenue Code and amounts included in gross  
14 income under Section 78 of the Internal Revenue Code)  
15 with respect to the stock of the same person to whom  
16 the intangible expenses and costs were directly or  
17 indirectly paid, incurred, or accrued. The preceding  
18 sentence shall not apply to the extent that the same  
19 dividends caused a reduction to the addition  
20 modification required under Section 203(b)(2)(E-12) of  
21 this Act. As used in this subparagraph, the term  
22 "intangible expenses and costs" includes (1) expenses,  
23 losses, and costs for, or related to, the direct or  
24 indirect acquisition, use, maintenance or management,  
25 ownership, sale, exchange, or any other disposition of  
26 intangible property; (2) losses incurred, directly or

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

9 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the

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

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

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

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



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

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

6           (H) In the case of a regulated investment company,  
7 an amount equal to the amount of exempt interest  
8 dividends as defined in subsection (b) (5) of Section  
9 852 of the Internal Revenue Code, paid to shareholders  
10 for the taxable year;

11           (I) With the exception of any amounts subtracted  
12 under subparagraph (J), an amount equal to the sum of  
13 all amounts disallowed as deductions by (i) Sections  
14 171(a) (2), and 265(a) (2) and amounts disallowed as  
15 interest expense by Section 291(a) (3) of the Internal  
16 Revenue Code, as now or hereafter amended, and all  
17 amounts of expenses allocable to interest and  
18 disallowed as deductions by Section 265(a) (1) of the  
19 Internal Revenue Code, as now or hereafter amended; and  
20 (ii) for taxable years ending on or after August 13,  
21 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and  
22 832(b) (5) (B) (i) of the Internal Revenue Code; the  
23 provisions of this subparagraph are exempt from the  
24 provisions of Section 250;

25           (J) An amount equal to all amounts included in such  
26 total which are exempt from taxation by this State

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

8           (K) An amount equal to those dividends included in  
9           such total which were paid by a corporation which  
10          conducts business operations in an Enterprise Zone or  
11          zones created under the Illinois Enterprise Zone Act or  
12          a River Edge Redevelopment Zone or zones created under  
13          the River Edge Redevelopment Zone Act and conducts  
14          substantially all of its operations in an Enterprise  
15          Zone or zones or a River Edge Redevelopment Zone or  
16          zones. This subparagraph (K) is exempt from the  
17          provisions of Section 250;

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

1           (M) For any taxpayer that is a financial  
2 organization within the meaning of Section 304(c) of  
3 this Act, an amount included in such total as interest  
4 income from a loan or loans made by such taxpayer to a  
5 borrower, to the extent that such a loan is secured by  
6 property which is eligible for the Enterprise Zone  
7 Investment Credit or the River Edge Redevelopment Zone  
8 Investment Credit. To determine the portion of a loan  
9 or loans that is secured by property eligible for a  
10 Section 201(f) investment credit to the borrower, the  
11 entire principal amount of the loan or loans between  
12 the taxpayer and the borrower should be divided into  
13 the basis of the Section 201(f) investment credit  
14 property which secures the loan or loans, using for  
15 this purpose the original basis of such property on the  
16 date that it was placed in service in the Enterprise  
17 Zone or the River Edge Redevelopment Zone. The  
18 subtraction modification available to taxpayer in any  
19 year under this subsection shall be that portion of the  
20 total interest paid by the borrower with respect to  
21 such loan attributable to the eligible property as  
22 calculated under the previous sentence. This  
23 subparagraph (M) is exempt from the provisions of  
24 Section 250;

25           (M-1) For any taxpayer that is a financial  
26 organization within the meaning of Section 304(c) of

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

24                 (N) Two times any contribution made during the  
25                 taxable year to a designated zone organization to the  
26                 extent that the contribution (i) qualifies as a

1 charitable contribution under subsection (c) of  
2 Section 170 of the Internal Revenue Code and (ii) must,  
3 by its terms, be used for a project approved by the  
4 Department of Commerce and Economic Opportunity under  
5 Section 11 of the Illinois Enterprise Zone Act or under  
6 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment  
7 Zone Act. This subparagraph (N) is exempt from the  
8 provisions of Section 250;

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

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

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

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

19 (R) On and after July 20, 1999, in the case of an  
20 attorney-in-fact with respect to whom an interinsurer  
21 or a reciprocal insurer has made the election under  
22 Section 835 of the Internal Revenue Code, 26 U.S.C.  
23 835, an amount equal to the excess, if any, of the  
24 amounts paid or incurred by that interinsurer or  
25 reciprocal insurer in the taxable year to the  
26 attorney-in-fact over the deduction allowed to that

1 interinsurer or reciprocal insurer with respect to the  
2 attorney-in-fact under Section 835(b) of the Internal  
3 Revenue Code for the taxable year; the provisions of  
4 this subparagraph are exempt from the provisions of  
5 Section 250;

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

16 (T) For taxable years 2001 and thereafter, for the  
17 taxable year in which the bonus depreciation deduction  
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 was  
26 taken in any year under subsection (k) of Section

1 168 of the Internal Revenue Code, but not including  
2 the bonus depreciation deduction;

3 (2) for taxable years ending on or before  
4 December 31, 2005, "x" equals "y" multiplied by 30  
5 and then divided by 70 (or "y" multiplied by  
6 0.429); and

7 (3) for taxable years ending after December  
8 31, 2005:

9 (i) for property on which a bonus  
10 depreciation deduction of 30% of the adjusted  
11 basis was taken, "x" equals "y" multiplied by  
12 30 and then divided by 70 (or "y" multiplied by  
13 0.429); and

14 (ii) for property on which a bonus  
15 depreciation deduction of 50% of the adjusted  
16 basis was taken, "x" equals "y" multiplied by  
17 1.0.

18 The aggregate amount deducted under this  
19 subparagraph in all taxable years for any one piece of  
20 property may not exceed the amount of the bonus  
21 depreciation deduction taken on that property on the  
22 taxpayer's federal income tax return under subsection  
23 (k) of Section 168 of the Internal Revenue Code. This  
24 subparagraph (T) is exempt from the provisions of  
25 Section 250;

26 (U) If the taxpayer sells, transfers, abandons, or



1 otherwise disposes of property for which the taxpayer  
2 was required in any taxable year to make an addition  
3 modification under subparagraph (E-10), then an amount  
4 equal to that addition modification.

5 If the taxpayer continues to own property through  
6 the last day of the last tax year for which the  
7 taxpayer may claim a depreciation deduction for  
8 federal income tax purposes and for which the taxpayer  
9 was required in any taxable year to make an addition  
10 modification under subparagraph (E-10), then an amount  
11 equal to that addition 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 This subparagraph (U) is exempt from the  
16 provisions of Section 250;

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

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

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

19 (X) An amount equal to the income from intangible  
20 property taken into account for the taxable year (net  
21 of the deductions allocable thereto) with respect to  
22 transactions with a foreign person who would be a  
23 member of the taxpayer's unitary business group but for  
24 the fact that the foreign person's business activity  
25 outside the United States is 80% or more of that  
26 person's total business activity, but not to exceed the

1 addition modification required to be made for the same  
2 taxable year under Section 203(b)(2)(E-13) for  
3 intangible expenses and costs paid, accrued, or  
4 incurred, directly or indirectly, to the same foreign  
5 person.

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

10 (c) Trusts and estates.

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

14 (2) Modifications. Subject to the provisions of  
15 paragraph (3), the taxable income referred to in paragraph  
16 (1) shall be modified by adding thereto the sum of the  
17 following amounts:

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

22 (B) In the case of (i) an estate, \$600; (ii) a  
23 trust which, under its governing instrument, is  
24 required to distribute all of its income currently,  
25 \$300; and (iii) any other trust, \$100, but in each such

1 case, only to the extent such amount was deducted in  
2 the computation of taxable income;

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

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

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

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

1 income of an earlier taxable year, and

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

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

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

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

24 (G-5) For taxable years ending after December 31,  
25 1997, an amount equal to any eligible remediation costs  
26 that the trust or estate deducted in computing adjusted

1 gross income and for which the trust or estate claims a  
2 credit under subsection (l) of Section 201;

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

8 (G-11) If the taxpayer sells, transfers, abandons,  
9 or otherwise disposes of property for which the  
10 taxpayer was required in any taxable year to make an  
11 addition modification under subparagraph (G-10), then  
12 an amount equal to the aggregate amount of the  
13 deductions taken in all taxable years under  
14 subparagraph (R) with respect to that property.

15 If the taxpayer continues to own property through  
16 the last day of the last tax year for which the  
17 taxpayer may claim a depreciation deduction for  
18 federal income tax purposes and for which the taxpayer  
19 was allowed in any taxable year to make a subtraction  
20 modification under subparagraph (R), then an amount  
21 equal to that subtraction modification.

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

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

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

19 This paragraph shall not apply to the following:

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

26 (ii) an item of interest paid, accrued, or

1 incurred, directly or indirectly, to a foreign  
2 person if the taxpayer can establish, based on a  
3 preponderance of the evidence, both of the  
4 following:

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

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

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

22 (iv) an item of interest paid, accrued, or  
23 incurred, directly or indirectly, to a foreign  
24 person if the taxpayer establishes by clear and  
25 convincing evidence that the adjustments are  
26 unreasonable; or if the taxpayer and the Director



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

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

13          (G-13) For taxable years ending on or after  
14          December 31, 2004, an amount equal to the amount of  
15          intangible expenses and costs otherwise allowed as a  
16          deduction in computing base income, and that were paid,  
17          accrued, or incurred, directly or indirectly, to a  
18          foreign person who would be a member of the same  
19          unitary business group but for the fact that the  
20          foreign person's business activity outside the United  
21          States is 80% or more of that person's total business  
22          activity. The addition modification required by this  
23          subparagraph shall be reduced to the extent that  
24          dividends were included in base income of the unitary  
25          group for the same taxable year and received by the  
26          taxpayer or by a member of the taxpayer's unitary

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

25 This paragraph shall not apply to the following:

26 (i) any item of intangible expenses or costs

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

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

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

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

23           (iii) any item of intangible expense or cost  
24           paid, accrued, or incurred, directly or  
25           indirectly, from a transaction with a foreign  
26           person if the taxpayer establishes by clear and

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

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

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

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

1 thereto;

2 (I) The valuation limitation amount;

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

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

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

1 the Internal Revenue Code; the provisions of this  
2 subparagraph are exempt from the provisions of Section  
3 250;

4 (M) An amount equal to those dividends included in  
5 such total which were paid by a corporation which  
6 conducts business operations in an Enterprise Zone or  
7 zones created under the Illinois Enterprise Zone Act or  
8 a River Edge Redevelopment Zone or zones created under  
9 the River Edge Redevelopment Zone Act and conducts  
10 substantially all of its operations in an Enterprise  
11 Zone or Zones or a River Edge Redevelopment Zone or  
12 zones. This subparagraph (M) is exempt from the  
13 provisions of Section 250;

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

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

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

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

5 (Q) For taxable year 1999 and thereafter, an amount  
6 equal to the amount of any (i) distributions, to the  
7 extent includible in gross income for federal income  
8 tax purposes, made to the taxpayer because of his or  
9 her status as a victim of persecution for racial or  
10 religious reasons by Nazi Germany or any other Axis  
11 regime or as an heir of the victim and (ii) items of  
12 income, to the extent includible in gross income for  
13 federal income tax purposes, attributable to, derived  
14 from or in any way related to assets stolen from,  
15 hidden from, or otherwise lost to a victim of  
16 persecution for racial or religious reasons by Nazi  
17 Germany or any other Axis regime immediately prior to,  
18 during, and immediately after World War II, including,  
19 but not limited to, interest on the proceeds receivable  
20 as insurance under policies issued to a victim of  
21 persecution for racial or religious reasons by Nazi  
22 Germany or any other Axis regime by European insurance  
23 companies immediately prior to and during World War II;  
24 provided, however, this subtraction from federal  
25 adjusted gross income does not apply to assets acquired  
26 with such assets or with the proceeds from the sale of

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

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

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

25 (2) for taxable years ending on or before  
26 December 31, 2005, "x" equals "y" multiplied by 30



1 and then divided by 70 (or "y" multiplied by  
2 0.429); and

3 (3) for taxable years ending after December  
4 31, 2005:

5 (i) for property on which a bonus  
6 depreciation deduction of 30% of the adjusted  
7 basis was taken, "x" equals "y" multiplied by  
8 30 and then divided by 70 (or "y" multiplied by  
9 0.429); and

10 (ii) for property on which a bonus  
11 depreciation deduction of 50% of the adjusted  
12 basis was taken, "x" equals "y" multiplied by  
13 1.0.

14 The aggregate amount deducted under this  
15 subparagraph in all taxable years for any one piece of  
16 property may not exceed the amount of the bonus  
17 depreciation deduction taken on that property on the  
18 taxpayer's federal income tax return under subsection  
19 (k) of Section 168 of the Internal Revenue Code. This  
20 subparagraph (R) is exempt from the provisions of  
21 Section 250;

22 (S) If the taxpayer sells, transfers, abandons, or  
23 otherwise disposes of property for which the taxpayer  
24 was required in any taxable year to make an addition  
25 modification under subparagraph (G-10), then an amount  
26 equal to that addition modification.

1           If the taxpayer continues to own property through  
2           the last day of the last tax year for which the  
3           taxpayer may claim a depreciation deduction for  
4           federal income tax purposes and for which the taxpayer  
5           was required in any taxable year to make an addition  
6           modification under subparagraph (G-10), then an amount  
7           equal to that addition modification.

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

11          This subparagraph (S) is exempt from the  
12          provisions of Section 250;

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

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

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

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

1 person.

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

9 (d) Partnerships.

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

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

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

20 (B) An amount equal to the amount of tax imposed by  
21 this Act to the extent deducted from gross income for  
22 the taxable year;

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

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

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

10           (D-6) If the taxpayer sells, transfers, abandons,  
11 or otherwise disposes of property for which the  
12 taxpayer was required in any taxable year to make an  
13 addition modification under subparagraph (D-5), then  
14 an amount equal to the aggregate amount of the  
15 deductions taken in all taxable years under  
16 subparagraph (O) with respect to that property.

17           If the taxpayer continues to own property through  
18 the last day of the last tax year for which the  
19 taxpayer may claim a depreciation deduction for  
20 federal income tax purposes and for which the taxpayer  
21 was allowed in any taxable year to make a subtraction  
22 modification under subparagraph (O), then an amount  
23 equal to that subtraction modification.

24           The taxpayer is required to make the addition  
25 modification under this subparagraph only once with  
26 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

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

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

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

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

23           (iv) an item of interest paid, accrued, or  
24 incurred, directly or indirectly, to a foreign  
25 person if the taxpayer establishes by clear and  
26 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; and

14          (D-8) For taxable years ending on or after December  
15          31, 2004, an amount equal to the amount of intangible  
16          expenses and costs otherwise allowed as a deduction in  
17          computing base income, and that were paid, accrued, or  
18          incurred, directly or indirectly, to a foreign person  
19          who would be a member of the same unitary business  
20          group but for the fact that the foreign person's  
21          business activity outside the United States is 80% or  
22          more of that person's total business activity. The  
23          addition modification required by this subparagraph  
24          shall be reduced to the extent that dividends were  
25          included in base income of the unitary group for the  
26          same taxable year and received by the taxpayer or by a



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

26 This paragraph shall not apply to the following:

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

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

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

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

24           (iii) any item of intangible expense or cost  
25           paid, accrued, or incurred, directly or  
26           indirectly, from a transaction with a foreign

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

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

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

18 (E) The valuation limitation amount;

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

22 (G) An amount equal to all amounts included in  
23 taxable income as modified by subparagraphs (A), (B),  
24 (C) and (D) which are exempt from taxation by this  
25 State either by reason of its statutes or Constitution  
26 or by reason of the Constitution, treaties or statutes

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

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

12 (I) An amount equal to all amounts of income  
13 distributable to an entity subject to the Personal  
14 Property Tax Replacement Income Tax imposed by  
15 subsections (c) and (d) of Section 201 of this Act  
16 including amounts distributable to organizations  
17 exempt from federal income tax by reason of Section  
18 501(a) of the Internal Revenue Code;

19 (J) With the exception of any amounts subtracted  
20 under subparagraph (G), an amount equal to the sum of  
21 all amounts disallowed as deductions by (i) Sections  
22 171(a) (2), and 265(2) of the Internal Revenue Code of  
23 1954, as now or hereafter amended, and all amounts of  
24 expenses allocable to interest and disallowed as  
25 deductions by Section 265(1) of the Internal Revenue  
26 Code, as now or hereafter amended; and (ii) for taxable

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

6 (K) An amount equal to those dividends included in  
7 such total which were paid by a corporation which  
8 conducts business operations in an Enterprise Zone or  
9 zones created under the Illinois Enterprise Zone Act,  
10 enacted by the 82nd General Assembly, or a River Edge  
11 Redevelopment Zone or zones created under the River  
12 Edge Redevelopment Zone Act and conducts substantially  
13 all of its operations in an Enterprise Zone or Zones or  
14 from a River Edge Redevelopment Zone or zones. This  
15 subparagraph (K) is exempt from the provisions of  
16 Section 250;

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

20 (M) An amount equal to those dividends included in  
21 such total that were paid by a corporation that  
22 conducts business operations in a federally designated  
23 Foreign Trade Zone or Sub-Zone and that is designated a  
24 High Impact Business located in Illinois; provided  
25 that dividends eligible for the deduction provided in  
26 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 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 was  
18 taken in any year under subsection (k) of Section  
19 168 of the Internal Revenue Code, but not including  
20 the bonus depreciation deduction;

21 (2) for taxable years ending on or before  
22 December 31, 2005, "x" equals "y" multiplied by 30  
23 and then divided by 70 (or "y" multiplied by  
24 0.429); and

25 (3) for taxable years ending after December  
26 31, 2005:

1 (i) for property on which a bonus  
2 depreciation deduction of 30% of the adjusted  
3 basis was taken, "x" equals "y" multiplied by  
4 30 and then divided by 70 (or "y" multiplied by  
5 0.429); and

6 (ii) for property on which a bonus  
7 depreciation deduction of 50% of the adjusted  
8 basis was taken, "x" equals "y" multiplied by  
9 1.0.

10 The aggregate amount deducted under this  
11 subparagraph in all taxable years for any one piece of  
12 property may not exceed the amount of the bonus  
13 depreciation deduction taken on that property on the  
14 taxpayer's federal income tax return under subsection  
15 (k) of Section 168 of the Internal Revenue Code. This  
16 subparagraph (O) is exempt from the provisions of  
17 Section 250;

18 (P) If the taxpayer sells, transfers, abandons, or  
19 otherwise disposes of property for which the taxpayer  
20 was required in any taxable year to make an addition  
21 modification under subparagraph (D-5), then an amount  
22 equal to that addition modification.

23 If the taxpayer continues to own property through  
24 the last day of the last tax year for which the  
25 taxpayer may claim a depreciation deduction for  
26 federal income tax purposes and for which the taxpayer

1 was required in any taxable year to make an addition  
2 modification under subparagraph (D-5), then an amount  
3 equal to that addition 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 This subparagraph (P) is exempt from the  
8 provisions of Section 250;

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

25 (R) An amount equal to the interest income taken  
26 into account for the taxable year (net of the



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

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

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

25 (1) In general. Subject to the provisions of paragraph

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

1 taxable income less than zero (net operating loss) is  
2 applied under Section 172 of the Internal Revenue Code or  
3 under subparagraph (E) of paragraph (2) of this subsection  
4 (e) applied in conjunction with Section 172 of the Internal  
5 Revenue Code.

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

9 (A) Certain life insurance companies. In the case  
10 of a life insurance company subject to the tax imposed  
11 by Section 801 of the Internal Revenue Code, life  
12 insurance company taxable income, plus the amount of  
13 distribution from pre-1984 policyholder surplus  
14 accounts as calculated under Section 815a of the  
15 Internal Revenue Code;

16 (B) Certain other insurance companies. In the case  
17 of mutual insurance companies subject to the tax  
18 imposed by Section 831 of the Internal Revenue Code,  
19 insurance company taxable income;

20 (C) Regulated investment companies. In the case of  
21 a regulated investment company subject to the tax  
22 imposed by Section 852 of the Internal Revenue Code,  
23 investment company taxable income;

24 (D) Real estate investment trusts. In the case of a  
25 real estate investment trust subject to the tax imposed  
26 by Section 857 of the Internal Revenue Code, real

1 estate investment trust taxable income;

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

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

19 (G) Subchapter S corporations. In the case of: (i)  
20 a Subchapter S corporation for which there is in effect  
21 an election for the taxable year under Section 1362 of  
22 the Internal Revenue Code, the taxable income of such  
23 corporation determined in accordance with Section  
24 1363(b) of the Internal Revenue Code, except that  
25 taxable income shall take into account those items  
26 which are required by Section 1363(b)(1) of the

1 Internal Revenue Code to be separately stated; and (ii)  
2 a Subchapter S corporation for which there is in effect  
3 a federal election to opt out of the provisions of the  
4 Subchapter S Revision Act of 1982 and have applied  
5 instead the prior federal Subchapter S rules as in  
6 effect on July 1, 1982, the taxable income of such  
7 corporation determined in accordance with the federal  
8 Subchapter S rules as in effect on July 1, 1982; and

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

16 (3) Recapture of business expenses on disposition of  
17 asset or business. Notwithstanding any other law to the  
18 contrary, if in prior years income from an asset or  
19 business has been classified as business income and in a  
20 later year is demonstrated to be non-business income, then  
21 all expenses, without limitation, deducted in such later  
22 year and in the 2 immediately preceding taxable years  
23 related to that asset or business that generated the  
24 non-business income shall be added back and recaptured as  
25 business income in the year of the disposition of the asset  
26 or business. Such amount shall be apportioned to Illinois

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

7 (f) Valuation limitation amount.

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

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

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

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

25 (A) If the fair market value of property referred  
26 to in paragraph (1) was readily ascertainable on August

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

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

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

24           (g) Double deductions. Unless specifically provided  
25 otherwise, nothing in this Section shall permit the same item

1 to be deducted more than once.

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

11 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;  
12 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.  
13 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.