



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0376

Introduced 1/26/2007, by Rep. Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5  
35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the State Treasurer Act. Removes the requirement that the State Treasurer adjust each account at least annually to ensure compliance with the requirements of the College Savings Pool. Provides that the Treasurer shall limit the contributions that may be made on behalf of a designated College Savings Pool beneficiary based on the limitations established by the Internal Revenue Service (now, based on an actuarial estimate of what is required to pay tuition, fees, and room and board for 5 undergraduate years at the highest cost eligible educational institution). Amends the Illinois Income Tax Act. Provides that for taxable years beginning on or after January 1, 2007, distributions from certain qualified tuition programs under the Internal Revenue Code that are administered by other states are exempt from the requirement that a distribution from an Internal Revenue Code qualified tuition program be included when determining adjusted gross income for purposes of determining base income. Requires taxpayers to add to their base income an amount equal to the amount previously deducted for deposits into a qualified tuition program if the moneys are transferred from a qualified tuition program that is administered by the State to an out-of-state program. Makes other changes. Effective immediately.

LRB095 05256 BDD 25333 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The State Treasurer Act is amended by changing  
5 Section 16.5 as follows:

6 (15 ILCS 505/16.5)

7 Sec. 16.5. College Savings Pool. The State Treasurer may  
8 establish and administer a College Savings Pool to supplement  
9 and enhance the investment opportunities otherwise available  
10 to persons seeking to finance the costs of higher education.  
11 The State Treasurer, in administering the College Savings Pool,  
12 may receive moneys paid into the pool by a participant and may  
13 serve as the fiscal agent of that participant for the purpose  
14 of holding and investing those moneys.

15 "Participant", as used in this Section, means any person  
16 who makes investments in the pool. "Designated beneficiary", as  
17 used in this Section, means any person on whose behalf an  
18 account is established in the College Savings Pool by a  
19 participant. Both in-state and out-of-state persons may be  
20 participants and designated beneficiaries in the College  
21 Savings Pool.

22 New accounts in the College Savings Pool may ~~shall~~ be  
23 processed through participating financial institutions.

1 "Participating financial institution", as used in this  
2 Section, means any financial institution insured by the Federal  
3 Deposit Insurance Corporation and lawfully doing business in  
4 the State of Illinois and any credit union approved by the  
5 State Treasurer and lawfully doing business in the State of  
6 Illinois that agrees to process new accounts in the College  
7 Savings Pool. Participating financial institutions may charge  
8 a processing fee to participants to open an account in the pool  
9 that shall not exceed \$30 until the year 2001. Beginning in  
10 2001 and every year thereafter, the maximum fee limit shall be  
11 adjusted by the Treasurer based on the Consumer Price Index for  
12 the North Central Region as published by the United States  
13 Department of Labor, Bureau of Labor Statistics for the  
14 immediately preceding calendar year. Every contribution  
15 received by a financial institution for investment in the  
16 College Savings Pool shall be transferred from the financial  
17 institution to a location selected by the State Treasurer  
18 within one business day following the day that the funds must  
19 be made available in accordance with federal law. All  
20 communications from the State Treasurer to participants shall  
21 reference the participating financial institution at which the  
22 account was processed.

23 The Treasurer may invest the moneys in the College Savings  
24 Pool in the same manner, in the same types of investments, and  
25 subject to the same limitations provided for the investment of  
26 moneys by the Illinois State Board of Investment. To enhance

1 the safety and liquidity of the College Savings Pool, to ensure  
2 the diversification of the investment portfolio of the pool,  
3 and in an effort to keep investment dollars in the State of  
4 Illinois, the State Treasurer may ~~shall~~ make a percentage of  
5 each account available for investment in participating  
6 financial institutions doing business in the State. The State  
7 Treasurer may ~~shall~~ deposit with the participating financial  
8 institution at which the account was processed the following  
9 percentage of each account at a prevailing rate offered by the  
10 institution, provided that the deposit is federally insured or  
11 fully collateralized and the institution accepts the deposit:  
12 10% of the total amount of each account for which the current  
13 age of the beneficiary is less than 7 years of age, 20% of the  
14 total amount of each account for which the beneficiary is at  
15 least 7 years of age and less than 12 years of age, and 50% of  
16 the total amount of each account for which the current age of  
17 the beneficiary is at least 12 years of age. ~~The State~~  
18 ~~Treasurer shall adjust each account at least annually to ensure~~  
19 ~~compliance with this Section.~~ The Treasurer shall develop,  
20 publish, and implement an investment policy covering the  
21 investment of the moneys in the College Savings Pool. The  
22 policy shall be published (i) at least once each year in at  
23 least one newspaper of general circulation in both Springfield  
24 and Chicago and (ii) each year as part of the audit of the  
25 College Savings Pool by the Auditor General, which shall be  
26 distributed to all participants. The Treasurer shall notify all

1 participants in writing, and the Treasurer shall publish in a  
2 newspaper of general circulation in both Chicago and  
3 Springfield, any changes to the previously published  
4 investment policy at least 30 calendar days before implementing  
5 the policy. Any investment policy adopted by the Treasurer  
6 shall be reviewed and updated if necessary within 90 days  
7 following the date that the State Treasurer takes office.

8 Participants shall be required to use moneys distributed  
9 from the College Savings Pool for qualified expenses at  
10 eligible educational institutions. "Qualified expenses", as  
11 used in this Section, means the following: (i) tuition, fees,  
12 and the costs of books, supplies, and equipment required for  
13 enrollment or attendance at an eligible educational  
14 institution and (ii) certain room and board expenses incurred  
15 while attending an eligible educational institution at least  
16 half-time. "Eligible educational institutions", as used in  
17 this Section, means public and private colleges, junior  
18 colleges, graduate schools, and certain vocational  
19 institutions that are described in Section 481 of the Higher  
20 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to  
21 participate in Department of Education student aid programs. A  
22 student shall be considered to be enrolled at least half-time  
23 if the student is enrolled for at least half the full-time  
24 academic work load for the course of study the student is  
25 pursuing as determined under the standards of the institution  
26 at which the student is enrolled. Distributions made from the

1 pool for qualified expenses shall be made directly to the  
2 eligible educational institution, directly to a vendor, or in  
3 the form of a check payable to both the beneficiary and the  
4 institution or vendor. Any moneys that are distributed in any  
5 other manner or that are used for expenses other than qualified  
6 expenses at an eligible educational institution shall be  
7 subject to a penalty of 10% of the earnings unless the  
8 beneficiary dies, becomes disabled, or receives a scholarship  
9 that equals or exceeds the distribution. Penalties shall be  
10 withheld at the time the distribution is made.

11 The Treasurer shall limit the contributions that may be  
12 made on behalf of a designated beneficiary based on the  
13 limitations established by the Internal Revenue Service. ~~an~~  
14 ~~actuarial estimate of what is required to pay tuition, fees,~~  
15 ~~and room and board for 5 undergraduate years at the highest~~  
16 ~~cost eligible educational institution.~~ The contributions made  
17 on behalf of a beneficiary who is also a beneficiary under the  
18 Illinois Prepaid Tuition Program shall be further restricted to  
19 ensure that the contributions in both programs combined do not  
20 exceed the limit established for the College Savings Pool. The  
21 Treasurer shall provide the Illinois Student Assistance  
22 Commission each year at a time designated by the Commission, an  
23 electronic report of all participant accounts in the  
24 Treasurer's College Savings Pool, listing total contributions  
25 and disbursements from each individual account during the  
26 previous calendar year. As soon thereafter as is possible

1 following receipt of the Treasurer's report, the Illinois  
2 Student Assistance Commission shall, in turn, provide the  
3 Treasurer with an electronic report listing those College  
4 Savings Pool participants who also participate in the State's  
5 prepaid tuition program, administered by the Commission. The  
6 Commission shall be responsible for filing any combined tax  
7 reports regarding State qualified savings programs required by  
8 the United States Internal Revenue Service. The Treasurer shall  
9 work with the Illinois Student Assistance Commission to  
10 coordinate the marketing of the College Savings Pool and the  
11 Illinois Prepaid Tuition Program when considered beneficial by  
12 the Treasurer and the Director of the Illinois Student  
13 Assistance Commission. The Treasurer's office shall not  
14 publicize or otherwise market the College Savings Pool or  
15 accept any moneys into the College Savings Pool prior to March  
16 1, 2000. The Treasurer shall provide a separate accounting for  
17 each designated beneficiary to each participant, the Illinois  
18 Student Assistance Commission, and the participating financial  
19 institution at which the account was processed. No interest in  
20 the program may be pledged as security for a loan.

21 The assets of the College Savings Pool and its income and  
22 operation shall be exempt from all taxation by the State of  
23 Illinois and any of its subdivisions. The accrued earnings on  
24 investments in the Pool once disbursed on behalf of a  
25 designated beneficiary shall be similarly exempt from all  
26 taxation by the State of Illinois and its subdivisions, so long

1 as they are used for qualified expenses. Contributions to a  
2 College Savings Pool account during the taxable year may be  
3 deducted from adjusted gross income as provided in Section 203  
4 of the Illinois Income Tax Act. The provisions of this  
5 paragraph are exempt from Section 250 of the Illinois Income  
6 Tax Act.

7 The Treasurer shall adopt rules he or she considers  
8 necessary for the efficient administration of the College  
9 Savings Pool. The rules shall provide whatever additional  
10 parameters and restrictions are necessary to ensure that the  
11 College Savings Pool meets all of the requirements for a  
12 qualified state tuition program under Section 529 of the  
13 Internal Revenue Code (26 U.S.C. 529). The rules shall provide  
14 for the administration expenses of the pool to be paid from its  
15 earnings and for the investment earnings in excess of the  
16 expenses and all moneys collected as penalties to be credited  
17 or paid monthly to the several participants in the pool in a  
18 manner which equitably reflects the differing amounts of their  
19 respective investments in the pool and the differing periods of  
20 time for which those amounts were in the custody of the pool.  
21 Also, the rules shall require the maintenance of records that  
22 enable the Treasurer's office to produce a report for each  
23 account in the pool at least annually that documents the  
24 account balance and investment earnings. Notice of any proposed  
25 amendments to the rules and regulations shall be provided to  
26 all participants prior to adoption. Amendments to rules and



1 regulations shall apply only to contributions made after the  
2 adoption of the amendment.

3       Upon creating the College Savings Pool, the State Treasurer  
4 shall give bond with 2 or more sufficient sureties, payable to  
5 and for the benefit of the participants in the College Savings  
6 Pool, in the penal sum of \$1,000,000, conditioned upon the  
7 faithful discharge of his or her duties in relation to the  
8 College Savings Pool.

9       (Source: P.A. 92-16, eff. 6-28-01; 92-439, eff. 8-17-01;  
10 92-626, eff. 7-11-02; 93-812, eff. 1-1-05.)

11       Section 10. The Illinois Income Tax Act is amended by  
12 changing Section 203 as follows:

13       (35 ILCS 5/203) (from Ch. 120, par. 2-203)

14       Sec. 203. Base income defined.

15       (a) Individuals.

16             (1) In general. In the case of an individual, base  
17 income means an amount equal to the taxpayer's adjusted  
18 gross income for the taxable year as modified by paragraph  
19 (2).

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

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

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

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

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

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

26 (D-5) An amount, to the extent not included in

1 adjusted gross income, equal to the amount of money  
2 withdrawn by the taxpayer in the taxable year from a  
3 medical care savings account and the interest earned on  
4 the account in the taxable year of a withdrawal  
5 pursuant to subsection (b) of Section 20 of the Medical  
6 Care Savings Account Act or subsection (b) of Section  
7 20 of the Medical Care Savings Account Act of 2000;

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

13 (D-15) 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;

18 (D-16) 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 (D-15), then  
22 an amount equal to the aggregate amount of the  
23 deductions taken in all taxable years under  
24 subparagraph (Z) 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 (Z), 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 (D-17) 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 that 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 under Sections 951 through 964  
24 of the Internal Revenue Code and amounts included in  
25 gross income under Section 78 of the Internal Revenue  
26 Code) with respect to the stock of the same person to

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

2           This paragraph shall not apply to the following:

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

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

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

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

25                           (iii) the taxpayer can establish, based on  
26                           clear and convincing evidence, that the interest

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

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

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

22          (D-18) For taxable years ending on or after  
23          December 31, 2004, an amount equal to the amount of  
24          intangible expenses and costs otherwise allowed as a  
25          deduction in computing base income, and that were paid,  
26          accrued, or incurred, directly or indirectly, to a

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

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

8 This paragraph shall not apply to the following:

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

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

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

25 (b) the transaction giving rise to the  
26 intangible expense or cost between the



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

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

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

24 (D-20) For taxable years beginning on or after  
25 January 1, 2002 and ending on or before December 31,  
26 2006, in the case of a distribution from a qualified

1 tuition program under Section 529 of the Internal  
2 Revenue Code, other than (i) a distribution from a  
3 College Savings Pool created under Section 16.5 of the  
4 State Treasurer Act or (ii) a distribution from the  
5 Illinois Prepaid Tuition Trust Fund, an amount equal to  
6 the amount excluded from gross income under Section  
7 529(c)(3)(B). For taxable years beginning on or after  
8 January 1, 2007, in the case of a distribution from a  
9 qualified tuition program under Section 529 of the  
10 Internal Revenue Code, other than (i) a distribution  
11 from a College Savings Pool created under Section 16.5  
12 of the State Treasurer Act, (ii) a distribution from  
13 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
14 distribution from a qualified tuition program under  
15 Section 529 of the Internal Revenue Code that (I)  
16 adopts and determines that its offering materials  
17 comply with the College Savings Plans Network's  
18 disclosure principles and (II) has made reasonable  
19 efforts to inform in-state residents of the existence  
20 of in-state qualified tuition programs by informing  
21 Illinois residents directly and, where applicable, to  
22 inform financial intermediaries distributing the  
23 program to inform in-state residents of the existence  
24 of in-state qualified tuition programs at least  
25 annually, an amount equal to the amount excluded from  
26 gross income under Section 529(c)(3)(B).

1           For the purposes of this subparagraph (D-20), a  
2           qualified tuition program has made reasonable efforts  
3           if it makes disclosures (which may use the term  
4           "in-state program" or "in-state plan" and need not  
5           specifically refer to Illinois or its qualified  
6           programs by name) (i) directly to prospective  
7           participants in its offering materials or makes a  
8           public disclosure, such as a website posting; and (ii)  
9           where applicable, to intermediaries selling the  
10           out-of-state program in the same manner that the  
11           out-of-state program distributes its offering  
12           materials ;

13           (D-21) For taxable years beginning on or after  
14           January 1, 2007, in the case of transfer of moneys from  
15           a qualified tuition program under Section 529 of the  
16           Internal Revenue Code that is administered by the State  
17           to an out-of-state program, an amount equal to the  
18           amount of moneys previously deducted from base income  
19           under subsection (a) (2) (Y) of this Section.

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

22           (E) For taxable years ending before December 31,  
23           2001, any amount included in such total in respect of  
24           any compensation (including but not limited to any  
25           compensation paid or accrued to a serviceman while a  
26           prisoner of war or missing in action) paid to a

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

23 (F) An amount equal to all amounts included in such  
24 total pursuant to the provisions of Sections 402(a),  
25 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the  
26 Internal Revenue Code, or included in such total as

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

8 (G) The valuation limitation amount;

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

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

17 (J) An amount equal to those dividends included in  
18 such total which were paid by a corporation which  
19 conducts business operations in an Enterprise Zone or  
20 zones created under the Illinois Enterprise Zone Act or  
21 a River Edge Redevelopment Zone or zones created under  
22 the River Edge Redevelopment Zone Act, and conducts  
23 substantially all of its operations in an Enterprise  
24 Zone or zones or a River Edge Redevelopment Zone or  
25 zones. This subparagraph (J) is exempt from the  
26 provisions of Section 250;

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

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

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

1           250;

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

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

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

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

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

26           (S) An amount, to the extent included in adjusted

1 gross income, equal to the amount of a contribution  
2 made in the taxable year on behalf of the taxpayer to a  
3 medical care savings account established under the  
4 Medical Care Savings Account Act or the Medical Care  
5 Savings Account Act of 2000 to the extent the  
6 contribution is accepted by the account administrator  
7 as provided in that Act;

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

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

21 (V) Beginning with tax years ending on or after  
22 December 31, 1995 and ending with tax years ending on  
23 or before December 31, 2004, an amount equal to the  
24 amount paid by a taxpayer who is a self-employed  
25 taxpayer, a partner of a partnership, or a shareholder  
26 in a Subchapter S corporation for health insurance or



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

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

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

1 Germany or any other Axis regime or as an heir of the  
2 victim. The amount of and the eligibility for any  
3 public assistance, benefit, or similar entitlement is  
4 not affected by the inclusion of items (i) and (ii) of  
5 this paragraph in gross income for federal income tax  
6 purposes. This paragraph is exempt from the provisions  
7 of Section 250;

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

26 (Z) For taxable years 2001 and thereafter, for the

1 taxable year in which the bonus depreciation deduction  
2 is taken on the taxpayer's federal income tax return  
3 under subsection (k) of Section 168 of the Internal  
4 Revenue Code and for each applicable taxable year  
5 thereafter, an amount equal to "x", where:

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

13 (2) for taxable years ending on or before  
14 December 31, 2005, "x" equals "y" multiplied by 30  
15 and then divided by 70 (or "y" multiplied by  
16 0.429); and

17 (3) for taxable years ending after December  
18 31, 2005:

19 (i) for property on which a bonus  
20 depreciation deduction of 30% of the adjusted  
21 basis was taken, "x" equals "y" multiplied by  
22 30 and then divided by 70 (or "y" multiplied by  
23 0.429); and

24 (ii) for property on which a bonus  
25 depreciation deduction of 50% of the adjusted  
26 basis was taken, "x" equals "y" multiplied by

1                   1.0.

2                   The aggregate amount deducted under this  
3                   subparagraph in all taxable years for any one piece of  
4                   property may not exceed the amount of the bonus  
5                   depreciation deduction taken on that property on the  
6                   taxpayer's federal income tax return under subsection  
7                   (k) of Section 168 of the Internal Revenue Code. This  
8                   subparagraph (Z) is exempt from the provisions of  
9                   Section 250;

10                  (AA) 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-15), then  
14                  an amount equal to that addition modification.

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 required in any taxable year to make an addition  
20                  modification under subparagraph (D-15), then an amount  
21                  equal to that addition modification.

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

25                  This subparagraph (AA) is exempt from the  
26                  provisions of Section 250;

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

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

20 (DD) An amount equal to the interest income taken  
21 into account for the taxable year (net of the  
22 deductions allocable thereto) with respect to  
23 transactions with a foreign person who would be a  
24 member of the taxpayer's unitary business group but for  
25 the fact that the foreign person's business activity  
26 outside the United States is 80% or more of that

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

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

19 (b) Corporations.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

1 respect to any one piece of property;

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

1 similar types of intangible assets.

2 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) any item of intangible expense or cost

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

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

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

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



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

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

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

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

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

20           (M) For any taxpayer that is a financial  
21 organization within the meaning of Section 304(c) of  
22 this Act, an amount included in such total as interest  
23 income from a loan or loans made by such taxpayer to a  
24 borrower, to the extent that such a loan is secured by  
25 property which is eligible for the Enterprise Zone  
26 Investment Credit or the River Edge Redevelopment Zone

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

18 (M-1) For any taxpayer that is a financial  
19 organization within the meaning of Section 304(c) of  
20 this Act, an amount included in such total as interest  
21 income from a loan or loans made by such taxpayer to a  
22 borrower, to the extent that such a loan is secured by  
23 property which is eligible for the High Impact Business  
24 Investment Credit. To determine the portion of a loan  
25 or loans that is secured by property eligible for a  
26 Section 201(h) investment credit to the borrower, the

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

17 (N) Two times any contribution made during the  
18 taxable year to a designated zone organization to the  
19 extent that the contribution (i) qualifies as a  
20 charitable contribution under subsection (c) of  
21 Section 170 of the Internal Revenue Code and (ii) must,  
22 by its terms, be used for a project approved by the  
23 Department of Commerce and Economic Opportunity under  
24 Section 11 of the Illinois Enterprise Zone Act or under  
25 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment  
26 Zone Act. This subparagraph (N) is exempt from the

1 provisions of Section 250;

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

1 modification provided under subparagraph (G) of  
2 paragraph (2) of this subsection (b) which is related  
3 to such dividends;

4 (P) An amount equal to any contribution made to a  
5 job training project established pursuant to the Tax  
6 Increment Allocation Redevelopment Act;

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

12 (R) On and after July 20, 1999, in the case of an  
13 attorney-in-fact with respect to whom an interinsurer  
14 or a reciprocal insurer has made the election under  
15 Section 835 of the Internal Revenue Code, 26 U.S.C.  
16 835, an amount equal to the excess, if any, of the  
17 amounts paid or incurred by that interinsurer or  
18 reciprocal insurer in the taxable year to the  
19 attorney-in-fact over the deduction allowed to that  
20 interinsurer or reciprocal insurer with respect to the  
21 attorney-in-fact under Section 835(b) of the Internal  
22 Revenue Code for the taxable year; the provisions of  
23 this subparagraph are exempt from the provisions of  
24 Section 250;

25 (S) For taxable years ending on or after December  
26 31, 1997, in the case of a Subchapter S corporation, an

1 amount equal to all amounts of income allocable to a  
2 shareholder subject to the Personal Property Tax  
3 Replacement Income Tax imposed by subsections (c) and  
4 (d) of Section 201 of this Act, including amounts  
5 allocable to organizations exempt from federal income  
6 tax by reason of Section 501(a) of the Internal Revenue  
7 Code. This subparagraph (S) is exempt from the  
8 provisions of Section 250;

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

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

22 (2) for taxable years ending on or before  
23 December 31, 2005, "x" equals "y" multiplied by 30  
24 and then divided by 70 (or "y" multiplied by  
25 0.429); and

26 (3) for taxable years ending after December

1           31, 2005:

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

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

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

19                   (U) If the taxpayer sells, transfers, abandons, or  
20                   otherwise disposes of property for which the taxpayer  
21                   was required in any taxable year to make an addition  
22                   modification under subparagraph (E-10), then an amount  
23                   equal to that addition modification.

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



1 federal income tax purposes and 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 The taxpayer is allowed to take the deduction under  
6 this subparagraph only once with respect to any one  
7 piece of property.

8 This subparagraph (U) is exempt from the  
9 provisions of Section 250;

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

26 (W) An amount equal to the interest income taken

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

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

25 (3) Special rule. For purposes of paragraph (2) (A),  
26 "gross income" in the case of a life insurance company, for

1 tax years ending on and after December 31, 1994, shall mean  
2 the gross investment income for the taxable year.

3 (c) Trusts and estates.

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

7 (2) Modifications. Subject to the provisions of  
8 paragraph (3), the taxable income referred to in paragraph  
9 (1) shall be modified by adding thereto the sum of the  
10 following amounts:

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

15 (B) In the case of (i) an estate, \$600; (ii) a  
16 trust which, under its governing instrument, is  
17 required to distribute all of its income currently,  
18 \$300; and (iii) any other trust, \$100, but in each such  
19 case, only to the extent such amount was deducted in  
20 the computation of taxable income;

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

24 (D) The amount of any net operating loss deduction  
25 taken in arriving at taxable income, other than a net

1 operating loss carried forward from a taxable year  
2 ending prior to December 31, 1986;

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

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

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

26 For taxable years in which there is a net operating

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

7 (F) For taxable years ending on or after January 1,  
8 1989, an amount equal to the tax deducted pursuant to  
9 Section 164 of the Internal Revenue Code if the trust  
10 or estate is claiming the same tax for purposes of the  
11 Illinois foreign tax credit under Section 601 of this  
12 Act;

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

17 (G-5) For taxable years ending after December 31,  
18 1997, an amount equal to any eligible remediation costs  
19 that the trust or estate deducted in computing adjusted  
20 gross income and for which the trust or estate claims a  
21 credit under subsection (l) of Section 201;

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

1 (G-11) If the taxpayer sells, transfers, abandons,  
2 or otherwise disposes of property for which the  
3 taxpayer was required in any taxable year to make an  
4 addition modification under subparagraph (G-10), then  
5 an amount equal to the aggregate amount of the  
6 deductions taken in all taxable years under  
7 subparagraph (R) with respect to that property.

8 If the taxpayer continues to own property through  
9 the last day of the last tax year for which the  
10 taxpayer may claim a depreciation deduction for  
11 federal income tax purposes and for which the taxpayer  
12 was allowed in any taxable year to make a subtraction  
13 modification under subparagraph (R), then an amount  
14 equal to that subtraction modification.

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

18 (G-12) For taxable years ending on or after  
19 December 31, 2004, an amount equal to the amount  
20 otherwise allowed as a deduction in computing base  
21 income for interest paid, accrued, or incurred,  
22 directly or indirectly, to a foreign person who would  
23 be a member of the same 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 the foreign  
26 person's total business activity. The addition

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

12 This paragraph shall not apply to the following:

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

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

24 (a) the foreign person, during the same  
25 taxable year, paid, accrued, or incurred, the  
26 interest to a person that is not a related

1 member, and

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

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

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

23 Nothing in this subsection shall preclude the  
24 Director from making any other adjustment  
25 otherwise allowed under Section 404 of this Act for  
26 any tax year beginning after the effective date of



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

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

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

18 This paragraph shall not apply to the following:

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

26 (ii) any item of intangible expense or cost

1           paid, accrued, or incurred, directly or  
2           indirectly, if the taxpayer can establish, based  
3           on a 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                   intangible expense or cost to a person that is  
8                   not a related member, and

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

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

25                  Nothing in this subsection shall preclude the  
26                  Director from making any other adjustment

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

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

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

21 (I) The valuation limitation amount;

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

25 (K) An amount equal to all amounts included in  
26 taxable income as modified by subparagraphs (A), (B),

1 (C), (D), (E), (F) and (G) which are exempt from  
2 taxation by this State either by reason of its statutes  
3 or Constitution or by reason of the Constitution,  
4 treaties or statutes of the United States; provided  
5 that, in the case of any statute of this State that  
6 exempts income derived from bonds or other obligations  
7 from the tax imposed under this Act, the amount  
8 exempted shall be the interest net of bond premium  
9 amortization;

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

23 (M) An amount equal to those dividends included in  
24 such total which were paid by a corporation which  
25 conducts business operations in an Enterprise Zone or  
26 zones created under the Illinois Enterprise Zone Act or

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

7 (N) An amount equal to any contribution made to a  
8 job training project established pursuant to the Tax  
9 Increment Allocation Redevelopment Act;

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

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

24 (Q) For taxable year 1999 and thereafter, an amount  
25 equal to the amount of any (i) distributions, to the  
26 extent includible in gross income for federal income

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

1 not affected by the inclusion of items (i) and (ii) of  
2 this paragraph in gross income for federal income tax  
3 purposes. This paragraph is exempt from the provisions  
4 of Section 250;

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

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

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

22 (3) for taxable years ending after December  
23 31, 2005:

24 (i) for property on which a bonus  
25 depreciation deduction of 30% of the adjusted  
26 basis was taken, "x" equals "y" multiplied by



1                   30 and then divided by 70 (or "y" multiplied by  
2                   0.429); and

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

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

15                  (S) If the taxpayer sells, transfers, abandons, or  
16                  otherwise disposes of property for which the taxpayer  
17                  was required in any taxable year to make an addition  
18                  modification under subparagraph (G-10), then an amount  
19                  equal to that addition modification.

20                  If the taxpayer continues to own property through  
21                  the last day of the last tax year for which the  
22                  taxpayer may claim a depreciation deduction for  
23                  federal income tax purposes and 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           The taxpayer is allowed to take the deduction under  
2 this subparagraph only once with respect to any one  
3 piece of property.

4           This subparagraph (S) is exempt from the  
5 provisions of Section 250;

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

22           (U) An amount equal to the interest income taken  
23 into account for the taxable year (net of the  
24 deductions allocable thereto) with respect to  
25 transactions with a foreign person who would be a  
26 member of the taxpayer's unitary business group but for

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

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

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

1 Code Section 642(c) during the taxable year.

2 (d) Partnerships.

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

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

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

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

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

23 (D-5) For taxable years 2001 and thereafter, an  
24 amount equal to the bonus depreciation deduction taken  
25 on the taxpayer's federal income tax return for the

1 taxable year under subsection (k) of Section 168 of the  
2 Internal Revenue Code;

3 (D-6) If the taxpayer sells, transfers, abandons,  
4 or otherwise disposes of property for which the  
5 taxpayer was required in any taxable year to make an  
6 addition modification under subparagraph (D-5), then  
7 an amount equal to the aggregate amount of the  
8 deductions taken in all taxable years under  
9 subparagraph (O) with respect to that property.

10 If the taxpayer continues to own property through  
11 the last day of the last tax year for which the  
12 taxpayer may claim a depreciation deduction for  
13 federal income tax purposes and for which the taxpayer  
14 was allowed in any taxable year to make a subtraction  
15 modification under subparagraph (O), then an amount  
16 equal to that subtraction modification.

17 The taxpayer is required to make the addition  
18 modification under this subparagraph only once with  
19 respect to any one piece of property;

20 (D-7) For taxable years ending on or after December  
21 31, 2004, an amount equal to the amount otherwise  
22 allowed as a deduction in computing base income for  
23 interest paid, accrued, or incurred, directly or  
24 indirectly, to a foreign person who would be a member  
25 of the same unitary business group but for the fact the  
26 foreign person's business activity outside the United

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

13 This paragraph shall not apply to the following:

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

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

25 (a) the foreign person, during the same  
26 taxable year, paid, accrued, or incurred, the

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

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

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

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

24 Nothing in this subsection shall preclude the  
25 Director from making any other adjustment  
26 otherwise allowed under Section 404 of this Act for

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

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



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

19 This paragraph shall not apply to the following:

20 (i) any item of intangible expenses or costs  
21 paid, accrued, or incurred, directly or  
22 indirectly, from a transaction with 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 item; or

1           (ii) any item of intangible expense or cost  
2           paid, accrued, or incurred, directly or  
3           indirectly, if the taxpayer can establish, based  
4           on a 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                   intangible expense or cost to a person that is  
9                   not a related member, and

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

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

26           Nothing in this subsection shall preclude the

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

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

11 (E) The valuation limitation amount;

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

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

25 (H) Any income of the partnership which  
26 constitutes personal service income as defined in

1 Section 1348 (b) (1) of the Internal Revenue Code (as  
2 in effect December 31, 1981) or a reasonable allowance  
3 for compensation paid or accrued for services rendered  
4 by partners to the partnership, whichever is greater;

5 (I) An amount equal to all amounts of income  
6 distributable to an entity subject to the Personal  
7 Property Tax Replacement Income Tax imposed by  
8 subsections (c) and (d) of Section 201 of this Act  
9 including amounts distributable to organizations  
10 exempt from federal income tax by reason of Section  
11 501(a) of the Internal Revenue Code;

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

25 (K) An amount equal to those dividends included in  
26 such total which were paid by a corporation which

1 conducts business operations in an Enterprise Zone or  
2 zones created under the Illinois Enterprise Zone Act,  
3 enacted by the 82nd General Assembly, or a River Edge  
4 Redevelopment Zone or zones created under the River  
5 Edge Redevelopment Zone Act and conducts substantially  
6 all of its operations in an Enterprise Zone or Zones or  
7 from a River Edge Redevelopment Zone or zones. This  
8 subparagraph (K) is exempt from the provisions of  
9 Section 250;

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

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

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

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

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

14           (2) for taxable years ending on or before  
15 December 31, 2005, "x" equals "y" multiplied by 30  
16 and then divided by 70 (or "y" multiplied by  
17 0.429); and

18           (3) for taxable years ending after December  
19 31, 2005:

20           (i) for property on which a bonus  
21 depreciation deduction of 30% of the adjusted  
22 basis was taken, "x" equals "y" multiplied by  
23 30 and then divided by 70 (or "y" multiplied by  
24 0.429); and

25           (ii) for property on which a bonus  
26 depreciation deduction of 50% of the adjusted



1 provisions of Section 250;

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

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



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

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

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

18 (1) In general. Subject to the provisions of paragraph  
19 (2) and subsection (b) (3), for purposes of this Section  
20 and Section 803(e), a taxpayer's gross income, adjusted  
21 gross income, or taxable income for the taxable year shall  
22 mean the amount of gross income, adjusted gross income or  
23 taxable income properly reportable for federal income tax  
24 purposes for the taxable year under the provisions of the  
25 Internal Revenue Code. Taxable income may be less than

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

25 (2) Special rule. For purposes of paragraph (1) of this  
26 subsection, the taxable income properly reportable for

1 federal income tax purposes shall mean:

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

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

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

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

21 (E) Consolidated corporations. In the case of a  
22 corporation which is a member of an affiliated group of  
23 corporations filing a consolidated income tax return  
24 for the taxable year for federal income tax purposes,  
25 taxable income determined as if such corporation had  
26 filed a separate return for federal income tax purposes

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

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

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

1 Subchapter S rules as in effect on July 1, 1982; and  
2 (H) Partnerships. In the case of a partnership,  
3 taxable income determined in accordance with Section  
4 703 of the Internal Revenue Code, except that taxable  
5 income shall take into account those items which are  
6 required by Section 703(a)(1) to be separately stated  
7 but which would be taken into account by an individual  
8 in calculating his taxable income.

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

26 (f) Valuation limitation amount.

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

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

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

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

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

1           respect of the sale, exchange or other disposition of  
2           such property.

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

14          (C) The Department shall prescribe such  
15          regulations as may be necessary to carry out the  
16          purposes of this paragraph.

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

20          (h) Legislative intention. Except as expressly provided by  
21          this Section there shall be no modifications or limitations on  
22          the amounts of income, gain, loss or deduction taken into  
23          account in determining gross income, adjusted gross income or  
24          taxable income for federal income tax purposes for the taxable

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

5 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;  
6 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.  
7 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

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