

# HB0174



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0174

Introduced 1/14/2009, by Rep. Daniel J. Burke

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Requires an addition modification to base income of an amount equal to the contribution component of any nonqualified withdrawal or refund from a tuition savings program that was previously deducted from base income and that did not result from the death or disability of the beneficiary. Effective immediately.

LRB096 01732 HLH 11741 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 The taxpayer is required to make the addition

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

3 (D-17) An amount equal to the amount otherwise  
4 allowed as a deduction in computing base income for  
5 interest paid, accrued, or incurred, directly or  
6 indirectly, (i) for taxable years ending on or after  
7 December 31, 2004, to a foreign person who would be a  
8 member of the same unitary business group but for the  
9 fact that foreign person's business activity outside  
10 the United States is 80% or more of the foreign  
11 person's total business activity and (ii) for taxable  
12 years ending on or after December 31, 2008, to a person  
13 who would be a member of the same unitary business  
14 group but for the fact that the person is prohibited  
15 under Section 1501(a)(27) from being included in the  
16 unitary business group because he or she is ordinarily  
17 required to apportion business income under different  
18 subsections of Section 304. The addition modification  
19 required by this subparagraph shall be reduced to the  
20 extent that dividends were included in base income of  
21 the unitary group for the same taxable year and  
22 received by the taxpayer or by a member of the  
23 taxpayer's unitary business group (including amounts  
24 included in gross income under Sections 951 through 964  
25 of the Internal Revenue Code and amounts included in  
26 gross income under Section 78 of the Internal Revenue

1 Code) with respect to the stock of the same person to  
2 whom the interest was paid, accrued, or incurred.

3 This paragraph shall not apply to the following:

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

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

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

18 (b) the transaction giving rise to the  
19 interest expense between the taxpayer and the  
20 person did not have as a principal purpose the  
21 avoidance of Illinois income tax, and is paid  
22 pursuant to a contract or agreement that  
23 reflects an arm's-length interest rate and  
24 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 person if  
7           the taxpayer establishes by clear and convincing  
8           evidence that the adjustments are unreasonable; or  
9           if the taxpayer and the Director agree in writing  
10          to the application or use of an alternative method  
11          of apportionment under Section 304(f).

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

21          (D-18) An amount equal to the amount of intangible  
22          expenses and costs otherwise allowed as a deduction in  
23          computing base income, and that were paid, accrued, or  
24          incurred, directly or indirectly, (i) for taxable  
25          years ending on or after December 31, 2004, to a  
26          foreign person who would be a member of the same

1 unitary business group but for the fact that the  
2 foreign person's business activity outside the United  
3 States is 80% or more of that person's total business  
4 activity and (ii) for taxable years ending on or after  
5 December 31, 2008, to a person who would be a member of  
6 the same unitary business group but for the fact that  
7 the person is prohibited under Section 1501(a)(27)  
8 from being included in the unitary business group  
9 because he or she is ordinarily required to apportion  
10 business income under different subsections of Section  
11 304. The addition modification required by this  
12 subparagraph shall be reduced to the extent that  
13 dividends were included in base income of the unitary  
14 group for the same taxable year and received by the  
15 taxpayer or by a member of the taxpayer's unitary  
16 business group (including amounts included in gross  
17 income under Sections 951 through 964 of the Internal  
18 Revenue Code and amounts included in gross income under  
19 Section 78 of the Internal Revenue Code) with respect  
20 to the stock of the same person to whom the intangible  
21 expenses and costs were directly or indirectly paid,  
22 incurred, or accrued. The preceding sentence does not  
23 apply to the extent that the same dividends caused a  
24 reduction to the addition modification required under  
25 Section 203(a)(2)(D-17) of this Act. As used in this  
26 subparagraph, the term "intangible expenses and costs"



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

14 This paragraph shall not apply to the following:

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

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

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

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

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

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

1           by which the Department will utilize its authority  
2           under Section 404 of this Act;

3           (D-19) For taxable years ending on or after  
4           December 31, 2008, an amount equal to the amount of  
5           insurance premium expenses and costs otherwise allowed  
6           as a deduction in computing base income, and that were  
7           paid, accrued, or incurred, directly or indirectly, to  
8           a person who would be a member of the same unitary  
9           business group but for the fact that the person is  
10          prohibited under Section 1501(a)(27) from being  
11          included in the unitary business group because he or  
12          she is ordinarily required to apportion business  
13          income under different subsections of Section 304. The  
14          addition modification required by this subparagraph  
15          shall be reduced to the extent that dividends were  
16          included in base income of the unitary group for the  
17          same taxable year and received by the taxpayer or by a  
18          member of the taxpayer's unitary business group  
19          (including amounts included in gross income under  
20          Sections 951 through 964 of the Internal Revenue Code  
21          and amounts included in gross income under Section 78  
22          of the Internal Revenue Code) with respect to the stock  
23          of the same person to whom the premiums and costs were  
24          directly or indirectly paid, incurred, or accrued. The  
25          preceding sentence does not apply to the extent that  
26          the same dividends caused a reduction to the addition

1 modification required under Section 203(a)(2)(D-17) or  
2 Section 203(a)(2)(D-18) of this Act.

3 (D-20) For taxable years beginning on or after  
4 January 1, 2002 and ending on or before December 31,  
5 2006, in the case of a distribution from a qualified  
6 tuition program under Section 529 of the Internal  
7 Revenue Code, other than (i) a distribution from a  
8 College Savings Pool created under Section 16.5 of the  
9 State Treasurer Act or (ii) a distribution from the  
10 Illinois Prepaid Tuition Trust Fund, an amount equal to  
11 the amount excluded from gross income under Section  
12 529(c)(3)(B). For taxable years beginning on or after  
13 January 1, 2007, in the case of a distribution from a  
14 qualified tuition program under Section 529 of the  
15 Internal Revenue Code, other than (i) a distribution  
16 from a College Savings Pool created under Section 16.5  
17 of the State Treasurer Act, (ii) a distribution from  
18 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
19 distribution from a qualified tuition program under  
20 Section 529 of the Internal Revenue Code that (I)  
21 adopts and determines that its offering materials  
22 comply with the College Savings Plans Network's  
23 disclosure principles and (II) has made reasonable  
24 efforts to inform in-state residents of the existence  
25 of in-state qualified tuition programs by informing  
26 Illinois residents directly and, where applicable, to

1 inform financial intermediaries distributing the  
2 program to inform in-state residents of the existence  
3 of in-state qualified tuition programs at least  
4 annually, an amount equal to the amount excluded from  
5 gross income under Section 529(c)(3)(B).

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

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

25 (D-22) For taxable years beginning on or after  
26 January 1, 2009, in the case of a nonqualified

1 withdrawal or refund of moneys from a qualified tuition  
2 program under Section 529 of the Internal Revenue Code  
3 administered by the State that is not used for  
4 qualified expenses at an eligible education  
5 institution, an amount equal to the contribution  
6 component of the nonqualified withdrawal or refund  
7 that was previously deducted from base income under  
8 subsection (a)(2)(y) of this Section, provided that  
9 the withdrawal or refund did not result from the  
10 beneficiary's death or disability.

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

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

1 after December 31, 2007, the National Guard of any  
2 other state. For taxable years ending on or after  
3 December 31, 2001, any amount included in such total in  
4 respect of any compensation (including but not limited  
5 to any compensation paid or accrued to a serviceman  
6 while a prisoner of war or missing in action) paid to a  
7 resident by reason of being a member of any component  
8 of the Armed Forces of the United States and in respect  
9 of any compensation paid or accrued to a resident who  
10 as a governmental employee was a prisoner of war or  
11 missing in action, and in respect of any compensation  
12 paid to a resident in 2001 or thereafter by reason of  
13 being a member of the Illinois National Guard or,  
14 beginning with taxable years ending on or after  
15 December 31, 2007, the National Guard of any other  
16 state. The provisions of this amendatory Act of the  
17 92nd General Assembly are exempt from the provisions of  
18 Section 250;

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

1 earnings from self employment by Section 1402 of the  
2 Internal Revenue Code and regulations adopted pursuant  
3 thereto;

4 (G) The valuation limitation amount;

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

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

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

23 (K) An amount equal to those dividends included in  
24 such total that were paid by a corporation that  
25 conducts business operations in a federally designated  
26 Foreign Trade Zone or Sub-Zone and that is designated a



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

6 (L) For taxable years ending after December 31,  
7 1983, an amount equal to all social security benefits  
8 and railroad retirement benefits included in such  
9 total pursuant to Sections 72(r) and 86 of the Internal  
10 Revenue Code;

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

24 (N) An amount equal to all amounts included in such  
25 total which are exempt from taxation by this State  
26 either by reason of its statutes or Constitution or by

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

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

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

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

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

22 (S) An amount, to the extent included in adjusted  
23 gross income, equal to the amount of a contribution  
24 made in the taxable year on behalf of the taxpayer to a  
25 medical care savings account established under the  
26 Medical Care Savings Account Act or the Medical Care

1 Savings Account Act of 2000 to the extent the  
2 contribution is accepted by the account administrator  
3 as provided in that Act;

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

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

17 (V) Beginning with tax years ending on or after  
18 December 31, 1995 and ending with tax years ending on  
19 or before December 31, 2004, an amount equal to the  
20 amount paid by a taxpayer who is a self-employed  
21 taxpayer, a partner of a partnership, or a shareholder  
22 in a Subchapter S corporation for health insurance or  
23 long-term care insurance for that taxpayer or that  
24 taxpayer's spouse or dependents, to the extent that the  
25 amount paid for that health insurance or long-term care  
26 insurance may be deducted under Section 213 of the

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

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

23 (X) For taxable year 1999 and thereafter, an amount  
24 equal to the amount of any (i) distributions, to the  
25 extent includible in gross income for federal income  
26 tax purposes, made to the taxpayer because of his or

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

1           this paragraph in gross income for federal income tax  
2           purposes. This paragraph is exempt from the provisions  
3           of Section 250;

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

22          (Z) For taxable years 2001 and thereafter, for the  
23          taxable year in which the bonus depreciation deduction  
24          is taken on the taxpayer's federal income tax return  
25          under subsection (k) of Section 168 of the Internal  
26          Revenue Code and for each applicable taxable year

1           thereafter, an amount equal to "x", where:

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

9                   (2) for taxable years ending on or before  
10                   December 31, 2005, "x" equals "y" multiplied by 30  
11                   and then divided by 70 (or "y" multiplied by  
12                   0.429); and

13                   (3) for taxable years ending after December  
14                   31, 2005:

15                           (i) for property on which a bonus  
16                           depreciation deduction of 30% of the adjusted  
17                           basis was taken, "x" equals "y" multiplied by  
18                           30 and then divided by 70 (or "y" multiplied by  
19                           0.429); and

20                           (ii) for property on which a bonus  
21                           depreciation deduction of 50% of the adjusted  
22                           basis was taken, "x" equals "y" multiplied by  
23                           1.0.

24           The aggregate amount deducted under this  
25           subparagraph in all taxable years for any one piece of  
26           property may not exceed the amount of the bonus

1 depreciation deduction taken on that property on the  
2 taxpayer's federal income tax return under subsection  
3 (k) of Section 168 of the Internal Revenue Code. This  
4 subparagraph (Z) is exempt from the provisions of  
5 Section 250;

6 (AA) If the taxpayer sells, transfers, abandons,  
7 or otherwise disposes of property for which the  
8 taxpayer was required in any taxable year to make an  
9 addition modification under subparagraph (D-15), then  
10 an amount equal to that addition modification.

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

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

21 This subparagraph (AA) is exempt from the  
22 provisions of Section 250;

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

26 (CC) The amount of (i) any interest income (net of



1 the deductions allocable thereto) taken into account  
2 for the taxable year with respect to a transaction with  
3 a taxpayer that is required to make an addition  
4 modification with respect to such transaction under  
5 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
6 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
7 the amount of that addition modification, and (ii) any  
8 income from intangible property (net of the deductions  
9 allocable thereto) taken into account for the taxable  
10 year with respect to a transaction with a taxpayer that  
11 is required to make an addition modification with  
12 respect to such transaction under Section  
13 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
14 203(d)(2)(D-8), but not to exceed the amount of that  
15 addition modification. This subparagraph (CC) is  
16 exempt from the provisions of Section 250;

17 (DD) An amount equal to the interest income taken  
18 into account for the taxable year (net of the  
19 deductions allocable thereto) with respect to  
20 transactions with (i) a foreign person who would be a  
21 member of the taxpayer's unitary business group but for  
22 the fact that the foreign person's business activity  
23 outside the United States is 80% or more of that  
24 person's total business activity and (ii) for taxable  
25 years ending on or after December 31, 2008, to a person  
26 who would be a member of the same unitary business

1 group but for the fact that the person is prohibited  
2 under Section 1501(a)(27) from being included in the  
3 unitary business group because he or she is ordinarily  
4 required to apportion business income under different  
5 subsections of Section 304, but not to exceed the  
6 addition modification required to be made for the same  
7 taxable year under Section 203(a)(2)(D-17) for  
8 interest paid, accrued, or incurred, directly or  
9 indirectly, to the same person. This subparagraph (DD)  
10 is exempt from the provisions of Section 250; and

11 (EE) An amount equal to the income from intangible  
12 property taken into account for the taxable year (net  
13 of the deductions allocable thereto) with respect to  
14 transactions with (i) a foreign person who would be a  
15 member of the taxpayer's unitary business group but for  
16 the fact that the foreign person's business activity  
17 outside the United States is 80% or more of that  
18 person's total business activity and (ii) for taxable  
19 years ending on or after December 31, 2008, to a person  
20 who would be a member of the same unitary business  
21 group but for the fact that the person is prohibited  
22 under Section 1501(a)(27) from being included in the  
23 unitary business group because he or she is ordinarily  
24 required to apportion business income under different  
25 subsections of Section 304, but not to exceed the  
26 addition modification required to be made for the same

1 taxable year under Section 203(a)(2)(D-18) for  
2 intangible expenses and costs paid, accrued, or  
3 incurred, directly or indirectly, to the same foreign  
4 person. This subparagraph (EE) is exempt from the  
5 provisions of Section 250.

6 (b) Corporations.

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

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

13 (A) An amount equal to all amounts paid or accrued  
14 to the taxpayer as interest and all distributions  
15 received from regulated investment companies during  
16 the taxable year to the extent excluded from gross  
17 income in the computation of taxable income;

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

21 (C) In the case of a regulated investment company,  
22 an amount equal to the excess of (i) the net long-term  
23 capital gain for the taxable year, over (ii) the amount  
24 of the capital gain dividends designated as such in  
25 accordance with Section 852(b)(3)(C) of the Internal

1 Revenue Code and any amount designated under Section  
2 852(b)(3)(D) of the Internal Revenue Code,  
3 attributable to the taxable year (this amendatory Act  
4 of 1995 (Public Act 89-89) is declarative of existing  
5 law and is not a new enactment);

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

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

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

1 income of an earlier taxable year, and

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

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

14 (E-5) For taxable years ending after December 31,  
15 1997, an amount equal to any eligible remediation costs  
16 that the corporation deducted in computing adjusted  
17 gross income and for which the corporation claims a  
18 credit under subsection (l) of Section 201;

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

24 (E-11) If the taxpayer sells, transfers, abandons,  
25 or otherwise disposes of property for which the  
26 taxpayer was required in any taxable year to make an

1 addition modification under subparagraph (E-10), then  
2 an amount equal to the aggregate amount of the  
3 deductions taken in all taxable years under  
4 subparagraph (T) with respect to that property.

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

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

15 (E-12) An amount equal to the amount otherwise  
16 allowed as a deduction in computing base income for  
17 interest paid, accrued, or incurred, directly or  
18 indirectly, (i) for taxable years ending on or after  
19 December 31, 2004, to a foreign person who would be a  
20 member of the same unitary business group but for the  
21 fact the foreign person's business activity outside  
22 the United States is 80% or more of the foreign  
23 person's total business activity and (ii) for taxable  
24 years ending on or after December 31, 2008, to a person  
25 who would be a member of the same unitary business  
26 group but for the fact that the person is prohibited

1 under Section 1501(a)(27) from being included in the  
2 unitary business group because he or she is ordinarily  
3 required to apportion business income under different  
4 subsections of Section 304. The addition modification  
5 required by this subparagraph shall be reduced to the  
6 extent that dividends were included in base income of  
7 the unitary group for the same taxable year and  
8 received by the taxpayer or by a member of the  
9 taxpayer's unitary business group (including amounts  
10 included in gross income pursuant to Sections 951  
11 through 964 of the Internal Revenue Code and amounts  
12 included in gross income under Section 78 of the  
13 Internal Revenue Code) with respect to the stock of the  
14 same person to whom the interest was paid, accrued, or  
15 incurred.

16 This paragraph shall not apply to the following:

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

23 (ii) an item of interest paid, accrued, or  
24 incurred, directly or indirectly, to a person if  
25 the taxpayer can establish, based on a  
26 preponderance of the evidence, both of the

1 following:

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

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

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

18 (iv) an item of interest paid, accrued, or  
19 incurred, directly or indirectly, to a person if  
20 the taxpayer establishes by clear and convincing  
21 evidence that the adjustments are unreasonable; or  
22 if the taxpayer and the Director agree in writing  
23 to the application or use of an alternative method  
24 of apportionment under Section 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 (E-13) 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, (i) for taxable  
12 years ending on or after December 31, 2004, to a  
13 foreign person who would be a member of the same  
14 unitary business group but for the fact that the  
15 foreign person's business activity outside the United  
16 States is 80% or more of that person's total business  
17 activity and (ii) for taxable years ending on or after  
18 December 31, 2008, to a person who would be a member of  
19 the same unitary business group but for the fact that  
20 the person is prohibited under Section 1501(a)(27)  
21 from being included in the unitary business group  
22 because he or she is ordinarily required to apportion  
23 business income under different subsections of Section  
24 304. The addition modification required by this  
25 subparagraph shall be reduced to the extent that  
26 dividends were included in base income of the unitary

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

1 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) any item of intangible expense or cost  
26 paid, accrued, or incurred, directly or

1 indirectly, from a transaction with a person if the  
2 taxpayer establishes by clear and convincing  
3 evidence, that the adjustments are unreasonable;  
4 or if the taxpayer and the Director agree in  
5 writing to the application or use of an alternative  
6 method of apportionment under Section 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-14) For taxable years ending on or after  
17 December 31, 2008, an amount equal to the amount of  
18 insurance premium expenses and costs otherwise allowed  
19 as a deduction in computing base income, and that were  
20 paid, accrued, or incurred, directly or indirectly, to  
21 a person who would be a member of the same unitary  
22 business group but for the fact that the person is  
23 prohibited under Section 1501(a)(27) from being  
24 included in the unitary business group because he or  
25 she is ordinarily required to apportion business  
26 income under different subsections of Section 304. The

1 addition modification required by this subparagraph  
2 shall be reduced to the extent that dividends were  
3 included in base income of the unitary group for the  
4 same taxable year and received by the taxpayer or by a  
5 member of the taxpayer's unitary business group  
6 (including amounts included in gross income under  
7 Sections 951 through 964 of the Internal Revenue Code  
8 and amounts included in gross income under Section 78  
9 of the Internal Revenue Code) with respect to the stock  
10 of the same person to whom the premiums and costs were  
11 directly or indirectly paid, incurred, or accrued. The  
12 preceding sentence does not apply to the extent that  
13 the same dividends caused a reduction to the addition  
14 modification required under Section 203(b) (2) (E-12) or  
15 Section 203(b) (2) (E-13) of this Act;

16 (E-15) For taxable years beginning after December  
17 31, 2008, any deduction for dividends paid by a captive  
18 real estate investment trust that is allowed to a real  
19 estate investment trust under Section 857(b) (2) (B) of  
20 the Internal Revenue Code for dividends paid;

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

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

26 (G) An amount equal to any amount included in such

1 total under Section 78 of the Internal Revenue Code;

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

7 (I) With the exception of any amounts subtracted  
8 under subparagraph (J), an amount equal to the sum of  
9 all amounts disallowed as deductions by (i) Sections  
10 171(a) (2), and 265(a)(2) and amounts disallowed as  
11 interest expense by Section 291(a)(3) of the Internal  
12 Revenue Code, as now or hereafter amended, and all  
13 amounts of expenses allocable to interest and  
14 disallowed as deductions by Section 265(a)(1) of the  
15 Internal Revenue Code, as now or hereafter amended; and  
16 (ii) for taxable years ending on or after August 13,  
17 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and  
18 832(b)(5)(B)(i) of the Internal Revenue Code; the  
19 provisions of this subparagraph are exempt from the  
20 provisions of Section 250;

21 (J) An amount equal to all amounts included in such  
22 total which are exempt from taxation by this State  
23 either by reason of its statutes or Constitution or by  
24 reason of the Constitution, treaties or statutes of the  
25 United States; provided that, in the case of any  
26 statute of this State that exempts income derived from

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

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

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

23 (M) For any taxpayer that is a financial  
24 organization within the meaning of Section 304(c) of  
25 this Act, an amount included in such total as interest  
26 income from a loan or loans made by such taxpayer to a

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

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



1 Investment Credit. To determine the portion of a loan  
2 or loans that is secured by property eligible for a  
3 Section 201(h) 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(h) 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 a federally  
10 designated Foreign Trade Zone or Sub-Zone located in  
11 Illinois. No taxpayer that is eligible for the  
12 deduction provided in subparagraph (M) of paragraph  
13 (2) of this subsection shall be eligible for the  
14 deduction provided under this subparagraph (M-1). The  
15 subtraction modification available to taxpayers in any  
16 year under this subsection shall be that portion of the  
17 total interest paid by the borrower with respect to  
18 such loan attributable to the eligible property as  
19 calculated under the previous sentence;

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

1 Section 11 of the Illinois Enterprise Zone Act or under  
2 Section 10-10 of the River Edge Redevelopment Zone Act.  
3 This subparagraph (N) is exempt from the provisions of  
4 Section 250;

5 (O) An amount equal to: (i) 85% for taxable years  
6 ending on or before December 31, 1992, or, a percentage  
7 equal to the percentage allowable under Section  
8 243(a)(1) of the Internal Revenue Code of 1986 for  
9 taxable years ending after December 31, 1992, of the  
10 amount by which dividends included in taxable income  
11 and received from a corporation that is not created or  
12 organized under the laws of the United States or any  
13 state or political subdivision thereof, including, for  
14 taxable years ending on or after December 31, 1988,  
15 dividends received or deemed received or paid or deemed  
16 paid under Sections 951 through 964 of the Internal  
17 Revenue Code, exceed the amount of the modification  
18 provided under subparagraph (G) of paragraph (2) of  
19 this subsection (b) which is related to such dividends,  
20 and including, for taxable years ending on or after  
21 December 31, 2008, dividends received from a captive  
22 real estate investment trust; plus (ii) 100% of the  
23 amount by which dividends, included in taxable income  
24 and received, including, for taxable years ending on or  
25 after December 31, 1988, dividends received or deemed  
26 received or paid or deemed paid under Sections 951

1 through 964 of the Internal Revenue Code and including,  
2 for taxable years ending on or after December 31, 2008,  
3 dividends received from a captive real estate  
4 investment trust, from any such corporation specified  
5 in clause (i) that would but for the provisions of  
6 Section 1504 (b) (3) of the Internal Revenue Code be  
7 treated as a member of the affiliated group which  
8 includes the dividend recipient, exceed the amount of  
9 the modification provided under subparagraph (G) of  
10 paragraph (2) of this subsection (b) which is related  
11 to such dividends. This subparagraph (O) is exempt from  
12 the provisions of Section 250 of this Act;

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

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

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

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

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

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

24 (1) "y" equals the amount of the depreciation  
25 deduction taken for the taxable year on the  
26 taxpayer's federal income tax return on property

1 for which the bonus depreciation deduction was  
2 taken in any year under subsection (k) of Section  
3 168 of the Internal Revenue Code, but not including  
4 the bonus depreciation deduction;

5 (2) for taxable years ending on or before  
6 December 31, 2005, "x" equals "y" multiplied by 30  
7 and then divided by 70 (or "y" multiplied by  
8 0.429); and

9 (3) for taxable years ending after December  
10 31, 2005:

11 (i) for property on which a bonus  
12 depreciation deduction of 30% of the adjusted  
13 basis was taken, "x" equals "y" multiplied by  
14 30 and then divided by 70 (or "y" multiplied by  
15 0.429); and

16 (ii) for property on which a bonus  
17 depreciation deduction of 50% of the adjusted  
18 basis was taken, "x" equals "y" multiplied by  
19 1.0.

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

1 Section 250;

2 (U) If the taxpayer sells, transfers, abandons, or  
3 otherwise disposes of property for which the taxpayer  
4 was required in any taxable year to make an addition  
5 modification under subparagraph (E-10), then an amount  
6 equal to that addition modification.

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

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

17 This subparagraph (U) is exempt from the  
18 provisions of Section 250;

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

1 income from intangible property (net of the deductions  
2 allocable thereto) taken into account for the taxable  
3 year with respect to a transaction with a taxpayer that  
4 is required to make an addition modification with  
5 respect to such transaction under Section  
6 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
7 203(d)(2)(D-8), but not to exceed the amount of such  
8 addition modification, and (iii) any insurance premium  
9 income (net of deductions allocable thereto) taken  
10 into account for the taxable year with respect to a  
11 transaction with a taxpayer that is required to make an  
12 addition modification with respect to such transaction  
13 under Section 203(a)(2)(D-19), Section  
14 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
15 203(d)(2)(D-9), but not to exceed the amount of that  
16 addition modification. This subparagraph (V) is exempt  
17 from the provisions of Section 250;

18 (W) 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 (i) 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 and (ii) for taxable  
26 years ending on or after December 31, 2008, to a person

1           who would be a member of the same unitary business  
2           group but for the fact that the person is prohibited  
3           under Section 1501(a)(27) from being included in the  
4           unitary business group because he or she is ordinarily  
5           required to apportion business income under different  
6           subsections of Section 304, but not to exceed the  
7           addition modification required to be made for the same  
8           taxable year under Section 203(b)(2)(E-12) for  
9           interest paid, accrued, or incurred, directly or  
10          indirectly, to the same person. This subparagraph (W)  
11          is exempt from the provisions of Section 250; 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 (i) 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 and (ii) for taxable  
20          years ending on or after December 31, 2008, to a person  
21          who would be a member of the same unitary business  
22          group but for the fact that the person is prohibited  
23          under Section 1501(a)(27) from being included in the  
24          unitary business group because he or she is ordinarily  
25          required to apportion business income under different  
26          subsections of Section 304, but not to exceed the



1 addition modification required to be made for the same  
2 taxable year under Section 203(b)(2)(E-13) for  
3 intangible expenses and costs paid, accrued, or  
4 incurred, directly or indirectly, to the same foreign  
5 person. This subparagraph (X) is exempt from the  
6 provisions of Section 250. ~~(Y)~~

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

11 (c) Trusts and estates.

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

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

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

23 (B) In the case of (i) an estate, \$600; (ii) a  
24 trust which, under its governing instrument, is  
25 required to distribute all of its income currently,

1           \$300; and (iii) any other trust, \$100, but in each such  
2 case, only to the extent such amount was deducted in  
3 the computation of taxable income;

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

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

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

21           (i) 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 be reduced by the amount of  
25 addition modification under this subparagraph (E)  
26 which related to that net operating loss and which

1           was taken into account in calculating the base  
2           income of an earlier taxable year, and

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

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

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

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

25                  (G-5) For taxable years ending after December 31,  
26          1997, an amount equal to any eligible remediation costs

1           that the trust or estate deducted in computing adjusted  
2           gross income and for which the trust or estate claims a  
3           credit under subsection (l) of Section 201;

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

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

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

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

26          (G-12) An amount equal to the amount otherwise

1 allowed as a deduction in computing base income for  
2 interest paid, accrued, or incurred, directly or  
3 indirectly, (i) for taxable years ending on or after  
4 December 31, 2004, to a foreign person who would be a  
5 member of the same unitary business group but for the  
6 fact that the foreign person's business activity  
7 outside the United States is 80% or more of the foreign  
8 person's total business activity and (ii) for taxable  
9 years ending on or after December 31, 2008, to a person  
10 who would be a member of the same unitary business  
11 group but for the fact that the person is prohibited  
12 under Section 1501(a)(27) from being included in the  
13 unitary business group because he or she is ordinarily  
14 required to apportion business income under different  
15 subsections of Section 304. The addition modification  
16 required by this subparagraph shall be reduced to the  
17 extent that dividends were included in base income of  
18 the unitary group for the same taxable year and  
19 received by the taxpayer or by a member of the  
20 taxpayer's unitary business group (including amounts  
21 included in gross income pursuant to Sections 951  
22 through 964 of the Internal Revenue Code and amounts  
23 included in gross income under Section 78 of the  
24 Internal Revenue Code) with respect to the stock of the  
25 same person to whom the interest was paid, accrued, or  
26 incurred.

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

19 (G-13) An amount equal to the amount of intangible  
20 expenses and costs otherwise allowed as a deduction in  
21 computing base income, and that were paid, accrued, or  
22 incurred, directly or indirectly, (i) for taxable  
23 years ending on or after December 31, 2004, to a  
24 foreign person who would be a member of the same  
25 unitary business group but for the fact that the  
26 foreign person's business activity outside the United

1 States is 80% or more of that person's total business  
2 activity and (ii) for taxable years ending on or after  
3 December 31, 2008, to a person who would be a member of  
4 the same unitary business group but for the fact that  
5 the person is prohibited under Section 1501(a)(27)  
6 from being included in the unitary business group  
7 because he or she is ordinarily required to apportion  
8 business income under different subsections of Section  
9 304. The addition modification required by this  
10 subparagraph shall be reduced to the extent that  
11 dividends were included in base income of the unitary  
12 group for the same taxable year and received by the  
13 taxpayer or by a member of the taxpayer's unitary  
14 business group (including amounts included in gross  
15 income pursuant to Sections 951 through 964 of the  
16 Internal Revenue Code and amounts included in gross  
17 income under Section 78 of the Internal Revenue Code)  
18 with respect to the stock of the same person to whom  
19 the intangible expenses and costs were directly or  
20 indirectly paid, incurred, or accrued. The preceding  
21 sentence shall not apply to the extent that the same  
22 dividends caused a reduction to the addition  
23 modification required under Section 203(c)(2)(G-12) of  
24 this Act. As used in this subparagraph, the term  
25 "intangible expenses and costs" includes: (1)  
26 expenses, losses, and costs for or related to the



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

12 This paragraph shall not apply to the following:

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

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

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

1 intangible expense or cost to a person that is  
2 not a related member, and

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

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

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

1 (G-14) For taxable years ending on or after  
2 December 31, 2008, an amount equal to the amount of  
3 insurance premium expenses and costs otherwise allowed  
4 as a deduction in computing base income, and that were  
5 paid, accrued, or incurred, directly or indirectly, to  
6 a person who would be a member of the same unitary  
7 business group but for the fact that the person is  
8 prohibited under Section 1501(a)(27) from being  
9 included in the unitary business group because he or  
10 she is ordinarily required to apportion business  
11 income under different subsections of Section 304. The  
12 addition modification required by this subparagraph  
13 shall be reduced to the extent that dividends were  
14 included in base income of the unitary group for the  
15 same taxable year and received by the taxpayer or by a  
16 member of the taxpayer's unitary business group  
17 (including amounts included in gross income under  
18 Sections 951 through 964 of the Internal Revenue Code  
19 and amounts included in gross income under Section 78  
20 of the Internal Revenue Code) with respect to the stock  
21 of the same person to whom the premiums and costs were  
22 directly or indirectly paid, incurred, or accrued. The  
23 preceding sentence does not apply to the extent that  
24 the same dividends caused a reduction to the addition  
25 modification required under Section 203(c)(2)(G-12) or  
26 Section 203(c)(2)(G-13) of this Act.

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

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

14 (I) The valuation limitation amount;

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

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

1           exempted shall be the interest net of bond premium  
2           amortization;

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

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

26          (N) An amount equal to any contribution made to a

1 job training project established pursuant to the Tax  
2 Increment Allocation Redevelopment Act;

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

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

17 (Q) For taxable year 1999 and thereafter, an amount  
18 equal to the amount of any (i) distributions, to the  
19 extent includible in gross income for federal income  
20 tax purposes, made to the taxpayer because of his or  
21 her status as a victim of persecution for racial or  
22 religious reasons by Nazi Germany or any other Axis  
23 regime or as an heir of the victim and (ii) items of  
24 income, to the extent includible in gross income for  
25 federal income tax purposes, attributable to, derived  
26 from or in any way related to assets stolen from,

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

24 (R) For taxable years 2001 and thereafter, for the  
25 taxable year in which the bonus depreciation deduction  
26 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal  
2 Revenue Code and for each applicable taxable year  
3 thereafter, an amount equal to "x", where:

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

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

15 (3) for taxable years ending after December  
16 31, 2005:

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

22 (ii) for property on which a bonus  
23 depreciation deduction of 50% of the adjusted  
24 basis was taken, "x" equals "y" multiplied by  
25 1.0.

26 The aggregate amount deducted under this



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

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

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

23          This subparagraph (S) is exempt from the  
24          provisions of Section 250;

25          (T) The amount of (i) any interest income (net of  
26          the deductions allocable thereto) taken into account

1 for the taxable year with respect to a transaction with  
2 a taxpayer that is required to make an addition  
3 modification with respect to such transaction under  
4 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
5 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
6 the amount of such addition modification and (ii) any  
7 income from intangible property (net of the deductions  
8 allocable thereto) taken into account for the taxable  
9 year with respect to a transaction with a taxpayer that  
10 is required to make an addition modification with  
11 respect to such transaction under Section  
12 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
13 203(d)(2)(D-8), but not to exceed the amount of such  
14 addition modification. This subparagraph (T) is exempt  
15 from the provisions of Section 250;

16 (U) An amount equal to the interest income taken  
17 into account for the taxable year (net of the  
18 deductions allocable thereto) with respect to  
19 transactions with (i) a foreign person who would be a  
20 member of the taxpayer's unitary business group but for  
21 the fact the foreign person's business activity  
22 outside the United States is 80% or more of that  
23 person's total business activity and (ii) for taxable  
24 years ending on or after December 31, 2008, to a person  
25 who would be a member of the same unitary business  
26 group but for the fact that the person is prohibited

1 under Section 1501(a)(27) from being included in the  
2 unitary business group because he or she is ordinarily  
3 required to apportion business income under different  
4 subsections of Section 304, but not to exceed the  
5 addition modification required to be made for the same  
6 taxable year under Section 203(c)(2)(G-12) for  
7 interest paid, accrued, or incurred, directly or  
8 indirectly, to the same person. This subparagraph (U)  
9 is exempt from the provisions of Section 250; and

10 (V) An amount equal to the income from intangible  
11 property taken into account for the taxable year (net  
12 of the deductions allocable thereto) with respect to  
13 transactions with (i) a foreign person who would be a  
14 member of the taxpayer's unitary business group but for  
15 the fact that the foreign person's business activity  
16 outside the United States is 80% or more of that  
17 person's total business activity and (ii) for taxable  
18 years ending on or after December 31, 2008, to a person  
19 who would be a member of the same unitary business  
20 group but for the fact that the person is prohibited  
21 under Section 1501(a)(27) from being included in the  
22 unitary business group because he or she is ordinarily  
23 required to apportion business income under different  
24 subsections of Section 304, but not to exceed the  
25 addition modification required to be made for the same  
26 taxable year under Section 203(c)(2)(G-13) for

1 intangible expenses and costs paid, accrued, or  
2 incurred, directly or indirectly, to the same foreign  
3 person. This subparagraph (V) is exempt from the  
4 provisions of Section 250. ~~(W)~~

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

12 (d) Partnerships.

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

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

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

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

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

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

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

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

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 allowed in any taxable year to make a subtraction  
25 modification under subparagraph (O), then an amount  
26 equal to that subtraction modification.

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

4           (D-7) An amount equal to the amount otherwise  
5 allowed as a deduction in computing base income for  
6 interest paid, accrued, or incurred, directly or  
7 indirectly, (i) for taxable years ending on or after  
8 December 31, 2004, to a foreign person who would be a  
9 member of the same unitary business group but for the  
10 fact the foreign person's business activity outside  
11 the United States is 80% or more of the foreign  
12 person's total business activity and (ii) for taxable  
13 years ending on or after December 31, 2008, to a person  
14 who would be a member of the same unitary business  
15 group but for the fact that the person is prohibited  
16 under Section 1501(a)(27) from being included in the  
17 unitary business group because he or she is ordinarily  
18 required to apportion business income under different  
19 subsections of Section 304. The addition modification  
20 required by this subparagraph shall be reduced to the  
21 extent that dividends were included in base income of  
22 the unitary group for the same taxable year and  
23 received by the taxpayer or by a member of the  
24 taxpayer's unitary business group (including amounts  
25 included in gross income pursuant to Sections 951  
26 through 964 of the Internal Revenue Code and amounts

1 included in gross income under Section 78 of the  
2 Internal Revenue Code) with respect to the stock of the  
3 same person to whom the interest was paid, accrued, or  
4 incurred.

5 This paragraph shall not apply to the following:

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

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

17 (a) the person, during the same taxable  
18 year, paid, accrued, or incurred, the interest  
19 to a person that is not a related member, and

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

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

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

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

23 (D-8) An amount equal to the amount of intangible  
24 expenses and costs otherwise allowed as a deduction in  
25 computing base income, and that were paid, accrued, or  
26 incurred, directly or indirectly, (i) for taxable



1 years ending on or after December 31, 2004, to a  
2 foreign person who would be a member of the same  
3 unitary business group but for the fact that the  
4 foreign person's business activity outside the United  
5 States is 80% or more of that person's total business  
6 activity and (ii) for taxable years ending on or after  
7 December 31, 2008, to a person who would be a member of  
8 the same unitary business group but for the fact that  
9 the person is prohibited under Section 1501(a)(27)  
10 from being included in the unitary business group  
11 because he or she is ordinarily required to apportion  
12 business income under different subsections of Section  
13 304. The addition modification required by this  
14 subparagraph shall be reduced to the extent that  
15 dividends were included in base income of the unitary  
16 group for the same taxable year and received by the  
17 taxpayer or by a member of the taxpayer's unitary  
18 business group (including amounts included in gross  
19 income pursuant to Sections 951 through 964 of the  
20 Internal Revenue Code and amounts included in gross  
21 income under Section 78 of the Internal Revenue Code)  
22 with respect to the stock of the same person to whom  
23 the intangible expenses and costs were directly or  
24 indirectly paid, incurred or accrued. The preceding  
25 sentence shall not apply to the extent that the same  
26 dividends caused a reduction to the addition

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

16 This paragraph shall not apply to the following:

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

24 (ii) any item of intangible expense or cost  
25 paid, accrued, or incurred, directly or  
26 indirectly, if the taxpayer can establish, based

1 on a preponderance of the evidence, both of the  
2 following:

3 (a) the person during the same taxable  
4 year paid, accrued, or incurred, the  
5 intangible expense or cost to a person that is  
6 not a related member, and

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

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

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

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

5           (D-9) For taxable years ending on or after December  
6           31, 2008, an amount equal to the amount of insurance  
7           premium expenses and costs otherwise allowed as a  
8           deduction in computing base income, and that were paid,  
9           accrued, or incurred, directly or indirectly, to a  
10          person who would be a member of the same unitary  
11          business group but for the fact that the person is  
12          prohibited under Section 1501(a)(27) from being  
13          included in the unitary business group because he or  
14          she is ordinarily required to apportion business  
15          income under different subsections of Section 304. 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 under  
22          Sections 951 through 964 of the Internal Revenue Code  
23          and amounts included in gross income under Section 78  
24          of the Internal Revenue Code) with respect to the stock  
25          of the same person to whom the premiums and costs were  
26          directly or indirectly paid, incurred, or accrued. The

1 preceding sentence does not apply to the extent that  
2 the same dividends caused a reduction to the addition  
3 modification required under Section 203(d) (2) (D-7) or  
4 Section 203(d) (2) (D-8) of this Act.

5 and by deducting from the total so obtained the following  
6 amounts:

7 (E) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

23 (O) For taxable years 2001 and thereafter, for the  
24 taxable year in which the bonus depreciation deduction  
25 is taken on the taxpayer's federal income tax return  
26 under subsection (k) of Section 168 of the Internal

1 Revenue Code and for each applicable taxable year  
2 thereafter, an amount equal to "x", where:

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

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

14 (3) for taxable years ending after December  
15 31, 2005:

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

21 (ii) for property on which a bonus  
22 depreciation deduction of 50% of the adjusted  
23 basis was taken, "x" equals "y" multiplied by  
24 1.0.

25 The aggregate amount deducted under this  
26 subparagraph in all taxable years for any one piece of



1 property may not exceed the amount of the bonus  
2 depreciation deduction taken on that property on the  
3 taxpayer's federal income tax return under subsection  
4 (k) of Section 168 of the Internal Revenue Code. This  
5 subparagraph (O) is exempt from the provisions of  
6 Section 250;

7 (P) If the taxpayer sells, transfers, abandons, or  
8 otherwise disposes of property for which the taxpayer  
9 was required in any taxable year to make an addition  
10 modification under subparagraph (D-5), then an amount  
11 equal to that addition modification.

12 If the taxpayer continues to own property through  
13 the last day of the last tax year for which the  
14 taxpayer may claim a depreciation deduction for  
15 federal income tax purposes and for which the taxpayer  
16 was required in any taxable year to make an addition  
17 modification under subparagraph (D-5), then an amount  
18 equal to that addition modification.

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

22 This subparagraph (P) is exempt from the  
23 provisions of Section 250;

24 (Q) The amount of (i) any interest income (net of  
25 the deductions allocable thereto) taken into account  
26 for the taxable year with respect to a transaction with

1 a taxpayer that is required to make an addition  
2 modification with respect to such transaction under  
3 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
4 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
5 the amount of such addition modification and (ii) any  
6 income from intangible property (net of the deductions  
7 allocable thereto) taken into account for the taxable  
8 year with respect to a transaction with a taxpayer that  
9 is required to make an addition modification with  
10 respect to such transaction under Section  
11 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
12 203(d)(2)(D-8), but not to exceed the amount of such  
13 addition modification. This subparagraph (Q) is exempt  
14 from Section 250;

15 (R) An amount equal to the interest income taken  
16 into account for the taxable year (net of the  
17 deductions allocable thereto) with respect to  
18 transactions with (i) a foreign person who would be a  
19 member of the taxpayer's unitary business group but for  
20 the fact that the foreign person's business activity  
21 outside the United States is 80% or more of that  
22 person's total business activity and (ii) for taxable  
23 years ending on or after December 31, 2008, to a person  
24 who would be a member of the same unitary business  
25 group but for the fact that the person is prohibited  
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily  
2 required to apportion business income under different  
3 subsections of Section 304, but not to exceed the  
4 addition modification required to be made for the same  
5 taxable year under Section 203(d)(2)(D-7) for interest  
6 paid, accrued, or incurred, directly or indirectly, to  
7 the same person. This subparagraph (R) is exempt from  
8 Section 250; and

9 (S) An amount equal to the income from intangible  
10 property taken into account for the taxable year (net  
11 of the deductions allocable thereto) with respect to  
12 transactions with (i) a foreign person who would be a  
13 member of the taxpayer's unitary business group but for  
14 the fact that the foreign person's business activity  
15 outside the United States is 80% or more of that  
16 person's total business activity and (ii) for taxable  
17 years ending on or after December 31, 2008, to a person  
18 who would be a member of the same unitary business  
19 group but for the fact that the person is prohibited  
20 under Section 1501(a)(27) from being included in the  
21 unitary business group because he or she is ordinarily  
22 required to apportion business income under different  
23 subsections of Section 304, but not to exceed the  
24 addition modification required to be made for the same  
25 taxable year under Section 203(d)(2)(D-8) for  
26 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same person.

2 This subparagraph (S) is exempt from Section 250. ~~(T)~~

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

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

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

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

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

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

25 (C) Regulated investment companies. In the case of  
26 a regulated investment company subject to the tax

1 imposed by Section 852 of the Internal Revenue Code,  
2 investment company taxable income;

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

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

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

24 (G) Subchapter S corporations. In the case of: (i)  
25 a Subchapter S corporation for which there is in effect  
26 an election for the taxable year under Section 1362 of

1 the Internal Revenue Code, the taxable income of such  
2 corporation determined in accordance with Section  
3 1363(b) of the Internal Revenue Code, except that  
4 taxable income shall take into account those items  
5 which are required by Section 1363(b)(1) of the  
6 Internal Revenue Code to be separately stated; and (ii)  
7 a Subchapter S corporation for which there is in effect  
8 a federal election to opt out of the provisions of the  
9 Subchapter S Revision Act of 1982 and have applied  
10 instead the prior federal Subchapter S rules as in  
11 effect on July 1, 1982, the taxable income of such  
12 corporation determined in accordance with the federal  
13 Subchapter S rules as in effect on July 1, 1982; and

14 (H) Partnerships. In the case of a partnership,  
15 taxable income determined in accordance with Section  
16 703 of the Internal Revenue Code, except that taxable  
17 income shall take into account those items which are  
18 required by Section 703(a)(1) to be separately stated  
19 but which would be taken into account by an individual  
20 in calculating his taxable income.

21 (3) Recapture of business expenses on disposition of  
22 asset or business. Notwithstanding any other law to the  
23 contrary, if in prior years income from an asset or  
24 business has been classified as business income and in a  
25 later year is demonstrated to be non-business income, then  
26 all expenses, without limitation, deducted in such later

1 year and in the 2 immediately preceding taxable years  
2 related to that asset or business that generated the  
3 non-business income shall be added back and recaptured as  
4 business income in the year of the disposition of the asset  
5 or business. Such amount shall be apportioned to Illinois  
6 using the greater of the apportionment fraction computed  
7 for the business under Section 304 of this Act for the  
8 taxable year or the average of the apportionment fractions  
9 computed for the business under Section 304 of this Act for  
10 the taxable year and for the 2 immediately preceding  
11 taxable years.

12 (f) Valuation limitation amount.

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

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

21 (B) The lesser of (i) the sum of the pre-August 1,  
22 1969 appreciation amounts (to the extent consisting of  
23 capital gain) for all property in respect of which such  
24 gain was reported for federal income tax purposes for  
25 the taxable year, or (ii) the net capital gain for the



1 taxable year, reduced in either case by any amount of  
2 such gain included in the amount determined under  
3 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

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

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

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

16          (Source:     P.A.     94-776,     eff.     5-19-06;     94-789,     eff.     5-19-06;  
17          94-1021,     eff.     7-12-06;     94-1074,     eff.     12-26-06;     95-23,     eff.  
18          8-3-07;     95-233,     eff.     8-16-07;     95-286,     eff.     8-20-07;     95-331,  
19          eff.     8-21-07;     95-707,     eff.     1-11-08;     95-876,     eff.     8-21-08;  
20          revised     10-15-08.)

21          Section     99.     Effective     date.     This     Act     takes     effect     upon  
22          becoming     law.