

**HB4634**



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**HB4634**

by Rep. David Reis - Richard P. Myers - David R. Leitch -  
Timothy L. Schmitz

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Restores a deduction allowed for personal services income of a partnership and certain compensation paid to partners (now, the deduction is available only for taxable years ending before December 31, 2009). Makes changes to a corresponding addition modification. Effective immediately.

LRB096 14896 HLH 29771 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;~~i-~~

11 ~~(D-23)~~~~(D-22)~~ An amount equal to the credit  
12 allowable to the taxpayer under Section 218(a) of this  
13 Act, determined without regard to Section 218(c) of  
14 this Act;~~i-~~

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

17 (E) For taxable years ending before December 31,  
18 2001, any amount included in such total in respect of  
19 any compensation (including but not limited to any  
20 compensation paid or accrued to a serviceman while a  
21 prisoner of war or missing in action) paid to a  
22 resident by reason of being on active duty in the Armed  
23 Forces of the United States and in respect of any  
24 compensation paid or accrued to a resident who as a  
25 governmental employee was a prisoner of war or missing  
26 in action, and in respect of any compensation paid to a

1 resident in 1971 or thereafter for annual training  
2 performed pursuant to Sections 502 and 503, Title 32,  
3 United States Code as a member of the Illinois National  
4 Guard or, beginning with taxable years ending on or  
5 after December 31, 2007, the National Guard of any  
6 other state. For taxable years ending on or after  
7 December 31, 2001, any amount included in such total in  
8 respect of any compensation (including but not limited  
9 to any compensation paid or accrued to a serviceman  
10 while a prisoner of war or missing in action) paid to a  
11 resident by reason of being a member of any component  
12 of the Armed Forces of the United States and in respect  
13 of any compensation paid or accrued to a resident who  
14 as a governmental employee was a prisoner of war or  
15 missing in action, and in respect of any compensation  
16 paid to a resident in 2001 or thereafter by reason of  
17 being a member of the Illinois National Guard or,  
18 beginning with taxable years ending on or after  
19 December 31, 2007, the National Guard of any other  
20 state. The provisions of this amendatory Act of the  
21 92nd General Assembly are exempt from the provisions of  
22 Section 250;

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

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

8 (G) The valuation limitation amount;

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

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

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



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

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

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

1           250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 made by the employee. This subparagraph (Y) is exempt  
2 from the provisions of Section 250;

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

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

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

20 (3) for taxable years ending after December  
21 31, 2005:

22 (i) for property on which a bonus  
23 depreciation deduction of 30% of the adjusted  
24 basis was taken, "x" equals "y" multiplied by  
25 30 and then divided by 70 (or "y" multiplied by  
26 0.429); and

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

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

13 (AA) 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-15), then  
17 an amount equal to that addition modification.

18 If the taxpayer continues to own property through  
19 the last day of the last tax year for which the  
20 taxpayer may claim a depreciation deduction for  
21 federal income tax purposes and for which the taxpayer  
22 was required in any taxable year to make an addition  
23 modification under subparagraph (D-15), then an amount  
24 equal to that addition modification.

25 The taxpayer is allowed to take the deduction under  
26 this subparagraph only once with respect to any one



1 piece of property.

2 This subparagraph (AA) is exempt from the  
3 provisions of Section 250;

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

7 (CC) The amount of (i) any interest income (net of  
8 the deductions allocable thereto) taken into account  
9 for the taxable year with respect to a transaction with  
10 a taxpayer that is required to make an addition  
11 modification with respect to such transaction under  
12 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
13 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
14 the amount of that addition modification, and (ii) any  
15 income from intangible property (net of the deductions  
16 allocable thereto) taken into account for the taxable  
17 year with respect to a transaction with a taxpayer that  
18 is required to make an addition modification with  
19 respect to such transaction under Section  
20 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
21 203(d)(2)(D-8), but not to exceed the amount of that  
22 addition modification. This subparagraph (CC) is  
23 exempt from the provisions of Section 250;

24 (DD) An amount equal to the interest income taken  
25 into account for the taxable year (net of the  
26 deductions allocable thereto) with respect to

1 transactions with (i) a foreign person who would be a  
2 member of the taxpayer's unitary business group but for  
3 the fact that the foreign person's business activity  
4 outside the United States is 80% or more of that  
5 person's total business activity and (ii) for taxable  
6 years ending on or after December 31, 2008, to a person  
7 who would be a member of the same unitary business  
8 group but for the fact that the person is prohibited  
9 under Section 1501(a)(27) from being included in the  
10 unitary business group because he or she is ordinarily  
11 required to apportion business income under different  
12 subsections of Section 304, but not to exceed the  
13 addition modification required to be made for the same  
14 taxable year under Section 203(a)(2)(D-17) for  
15 interest paid, accrued, or incurred, directly or  
16 indirectly, to the same person. This subparagraph (DD)  
17 is exempt from the provisions of Section 250; and

18 (EE) An amount equal to the income from intangible  
19 property taken into account for the taxable year (net  
20 of the 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(a)(2)(D-18) for  
9           intangible expenses and costs paid, accrued, or  
10          incurred, directly or indirectly, to the same foreign  
11          person. This subparagraph (EE) is exempt from the  
12          provisions of Section 250.

13          (b) Corporations.

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

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

20           (A) An amount equal to all amounts paid or accrued  
21          to the taxpayer as interest and all distributions  
22          received from regulated investment companies during  
23          the taxable year to the extent excluded from gross  
24          income in the computation of taxable income;

25           (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 taxable income for the taxable year;

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

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

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

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

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

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

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

26           (E-10) For taxable years 2001 and thereafter, an

1 amount equal to the bonus depreciation deduction taken  
2 on the taxpayer's federal income tax return for the  
3 taxable year under subsection (k) of Section 168 of the  
4 Internal Revenue Code;

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

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 allowed in any taxable year to make a subtraction  
17 modification under subparagraph (T), then an amount  
18 equal to that subtraction modification.

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

22 (E-12) An amount equal to the amount otherwise  
23 allowed as a deduction in computing base income for  
24 interest paid, accrued, or incurred, directly or  
25 indirectly, (i) for taxable years ending on or after  
26 December 31, 2004, to a foreign person who would be a

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

23 This paragraph shall not apply to the following:

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

1 than a state which requires mandatory unitary  
2 reporting, to a tax on or measured by net income  
3 with respect to such interest; or

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

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

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

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

25 (iv) an item of interest paid, accrued, or  
26 incurred, directly or indirectly, to a person if



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

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

15          (E-13) An amount equal to the amount of intangible  
16          expenses and costs otherwise allowed as a deduction in  
17          computing base income, and that were paid, accrued, or  
18          incurred, directly or indirectly, (i) for taxable  
19          years ending on or after December 31, 2004, to a  
20          foreign person who would be a member of the same  
21          unitary business group but for the fact that the  
22          foreign person's business activity outside the United  
23          States is 80% or more of that person's total business  
24          activity and (ii) for taxable years ending on or after  
25          December 31, 2008, to a person who would be a member of  
26          the same unitary business group but for the fact that

1 the person is prohibited under Section 1501(a)(27)  
2 from being included in the unitary business group  
3 because he or she is ordinarily required to apportion  
4 business income under different subsections of Section  
5 304. The addition modification required by this  
6 subparagraph shall be reduced to the extent that  
7 dividends were included in base income of the unitary  
8 group for the same taxable year and received by the  
9 taxpayer or by a member of the taxpayer's unitary  
10 business group (including amounts included in gross  
11 income pursuant to Sections 951 through 964 of the  
12 Internal Revenue Code and amounts included in gross  
13 income under Section 78 of the Internal Revenue Code)  
14 with respect to the stock of the same person to whom  
15 the intangible expenses and costs were directly or  
16 indirectly paid, incurred, or accrued. The preceding  
17 sentence shall not apply to the extent that the same  
18 dividends caused a reduction to the addition  
19 modification required under Section 203(b)(2)(E-12) of  
20 this Act. As used in this subparagraph, the term  
21 "intangible expenses and costs" includes (1) expenses,  
22 losses, and costs for, or related to, the direct or  
23 indirect acquisition, use, maintenance or management,  
24 ownership, sale, exchange, or any other disposition of  
25 intangible property; (2) losses incurred, directly or  
26 indirectly, from factoring transactions or discounting

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

8 This paragraph shall not apply to the following:

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

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

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

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

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

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

23 (E-14) For taxable years ending on or after  
24 December 31, 2008, an amount equal to the amount of  
25 insurance premium expenses and costs otherwise allowed  
26 as a deduction in computing base income, and that were

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

23                 (E-15) For taxable years beginning after December  
24                 31, 2008, any deduction for dividends paid by a captive  
25                 real estate investment trust that is allowed to a real  
26                 estate investment trust under Section 857(b)(2)(B) of

1 the Internal Revenue Code for dividends paid;

2 (E-16) An amount equal to the credit allowable to  
3 the taxpayer under Section 218(a) of this Act,  
4 determined without regard to Section 218(c) of this  
5 Act;

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

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 any amount included in such  
12 total under Section 78 of the Internal Revenue Code;

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

18 (I) With the exception of any amounts subtracted  
19 under subparagraph (J), an amount equal to the sum of  
20 all amounts disallowed as deductions by (i) Sections  
21 171(a) (2), and 265(a) (2) and amounts disallowed as  
22 interest expense by Section 291(a) (3) of the Internal  
23 Revenue Code, as now or hereafter amended, and all  
24 amounts of expenses allocable to interest and  
25 disallowed as deductions by Section 265(a) (1) of the  
26 Internal Revenue Code, as now or hereafter amended; and

1 (ii) for taxable years ending on or after August 13,  
2 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and  
3 832(b)(5)(B)(i) of the Internal Revenue Code; the  
4 provisions of this subparagraph are exempt from the  
5 provisions of Section 250;

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

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

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

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

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



1 total interest paid by the borrower with respect to  
2 such loan attributable to the eligible property as  
3 calculated under the previous sentence. This  
4 subparagraph (M) is exempt from the provisions of  
5 Section 250;

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

1 year under this subsection shall be that portion of the  
2 total interest paid by the borrower with respect to  
3 such loan attributable to the eligible property as  
4 calculated under the previous sentence;

5 (N) Two times any contribution made during the  
6 taxable year to a designated zone organization to the  
7 extent that the contribution (i) qualifies as a  
8 charitable contribution under subsection (c) of  
9 Section 170 of the Internal Revenue Code and (ii) must,  
10 by its terms, be used for a project approved by the  
11 Department of Commerce and Economic Opportunity under  
12 Section 11 of the Illinois Enterprise Zone Act or under  
13 Section 10-10 of the River Edge Redevelopment Zone Act.  
14 This subparagraph (N) is exempt from the provisions of  
15 Section 250;

16 (O) An amount equal to: (i) 85% for taxable years  
17 ending on or before December 31, 1992, or, a percentage  
18 equal to the percentage allowable under Section  
19 243(a)(1) of the Internal Revenue Code of 1986 for  
20 taxable years ending after December 31, 1992, of the  
21 amount by which dividends included in taxable income  
22 and received from a corporation that is not created or  
23 organized under the laws of the United States or any  
24 state or political subdivision thereof, including, for  
25 taxable years ending on or after December 31, 1988,  
26 dividends received or deemed received or paid or deemed

1           paid under Sections 951 through 964 of the Internal  
2           Revenue Code, exceed the amount of the modification  
3           provided under subparagraph (G) of paragraph (2) of  
4           this subsection (b) which is related to such dividends,  
5           and including, for taxable years ending on or after  
6           December 31, 2008, dividends received from a captive  
7           real estate investment trust; plus (ii) 100% of the  
8           amount by which dividends, included in taxable income  
9           and received, including, for taxable years ending on or  
10          after December 31, 1988, dividends received or deemed  
11          received or paid or deemed paid under Sections 951  
12          through 964 of the Internal Revenue Code and including,  
13          for taxable years ending on or after December 31, 2008,  
14          dividends received from a captive real estate  
15          investment trust, from any such corporation specified  
16          in clause (i) that would but for the provisions of  
17          Section 1504 (b) (3) of the Internal Revenue Code be  
18          treated as a member of the affiliated group which  
19          includes the dividend recipient, exceed the amount of  
20          the modification provided under subparagraph (G) of  
21          paragraph (2) of this subsection (b) which is related  
22          to such dividends. This subparagraph (O) is exempt from  
23          the provisions of Section 250 of this Act;

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

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

6           (R) On and after July 20, 1999, in the case of an  
7 attorney-in-fact with respect to whom an interinsurer  
8 or a reciprocal insurer has made the election under  
9 Section 835 of the Internal Revenue Code, 26 U.S.C.  
10 835, an amount equal to the excess, if any, of the  
11 amounts paid or incurred by that interinsurer or  
12 reciprocal insurer in the taxable year to the  
13 attorney-in-fact over the deduction allowed to that  
14 interinsurer or reciprocal insurer with respect to the  
15 attorney-in-fact under Section 835(b) of the Internal  
16 Revenue Code for the taxable year; the provisions of  
17 this subparagraph are exempt from the provisions of  
18 Section 250;

19           (S) For taxable years ending on or after December  
20 31, 1997, in the case of a Subchapter S corporation, an  
21 amount equal to all amounts of income allocable to a  
22 shareholder subject to the Personal Property Tax  
23 Replacement Income Tax imposed by subsections (c) and  
24 (d) of Section 201 of this Act, including amounts  
25 allocable to organizations exempt from federal income  
26 tax by reason of Section 501(a) of the Internal Revenue

1 Code. This subparagraph (S) is exempt from the  
2 provisions of Section 250;

3 (T) For taxable years 2001 and thereafter, for the  
4 taxable year in which the bonus depreciation deduction  
5 is taken on the taxpayer's federal income tax return  
6 under subsection (k) of Section 168 of the Internal  
7 Revenue Code and for each applicable taxable year  
8 thereafter, an amount equal to "x", where:

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

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

20 (3) for taxable years ending after December  
21 31, 2005:

22 (i) for property on which a bonus  
23 depreciation deduction of 30% of the adjusted  
24 basis was taken, "x" equals "y" multiplied by  
25 30 and then divided by 70 (or "y" multiplied by  
26 0.429); and

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

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

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

18 If the taxpayer continues to own property through  
19 the last day of the last tax year for which the  
20 taxpayer may claim a depreciation deduction for  
21 federal income tax purposes and for which the taxpayer  
22 was required in any taxable year to make an addition  
23 modification under subparagraph (E-10), then an amount  
24 equal to that addition modification.

25 The taxpayer is allowed to take the deduction under  
26 this subparagraph only once with respect to any one

1 piece of property.

2 This subparagraph (U) is exempt from the  
3 provisions of Section 250;

4 (V) The amount of: (i) any interest income (net of  
5 the deductions allocable thereto) taken into account  
6 for the taxable year with respect to a transaction with  
7 a taxpayer that is required to make an addition  
8 modification with respect to such transaction under  
9 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
10 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
11 the amount of such addition modification, (ii) any  
12 income from intangible property (net of the deductions  
13 allocable thereto) taken into account for the taxable  
14 year with respect to a transaction with a taxpayer that  
15 is required to make an addition modification with  
16 respect to such transaction under Section  
17 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
18 203(d)(2)(D-8), but not to exceed the amount of such  
19 addition modification, and (iii) any insurance premium  
20 income (net of deductions allocable thereto) taken  
21 into account for the taxable year with respect to a  
22 transaction with a taxpayer that is required to make an  
23 addition modification with respect to such transaction  
24 under Section 203(a)(2)(D-19), Section  
25 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
26 203(d)(2)(D-9), but not to exceed the amount of that

1 addition modification. This subparagraph (V) is exempt  
2 from the provisions of Section 250;

3 (W) An amount equal to the interest income taken  
4 into account for the taxable year (net of the  
5 deductions allocable thereto) with respect to  
6 transactions with (i) a foreign person who would be a  
7 member of the taxpayer's unitary business group but for  
8 the fact that the foreign person's business activity  
9 outside the United States is 80% or more of that  
10 person's total business activity and (ii) for taxable  
11 years ending on or after December 31, 2008, to a person  
12 who would be a member of the same unitary business  
13 group but for the fact that the person is prohibited  
14 under Section 1501(a) (27) from being included in the  
15 unitary business group because he or she is ordinarily  
16 required to apportion business income under different  
17 subsections of Section 304, but not to exceed the  
18 addition modification required to be made for the same  
19 taxable year under Section 203(b) (2) (E-12) for  
20 interest paid, accrued, or incurred, directly or  
21 indirectly, to the same person. This subparagraph (W)  
22 is exempt from the provisions of Section 250; and

23 (X) An amount equal to the income from intangible  
24 property taken into account for the taxable year (net  
25 of the deductions allocable thereto) with respect to  
26 transactions with (i) a foreign person who would be a



1 member of the taxpayer's unitary business group but for  
2 the fact that the foreign person's business activity  
3 outside the United States is 80% or more of that  
4 person's total business activity and (ii) for taxable  
5 years ending on or after December 31, 2008, to a person  
6 who would be a member of the same unitary business  
7 group but for the fact that the person is prohibited  
8 under Section 1501(a)(27) from being included in the  
9 unitary business group because he or she is ordinarily  
10 required to apportion business income under different  
11 subsections of Section 304, but not to exceed the  
12 addition modification required to be made for the same  
13 taxable year under Section 203(b)(2)(E-13) for  
14 intangible expenses and costs paid, accrued, or  
15 incurred, directly or indirectly, to the same foreign  
16 person. This subparagraph (X) is exempt from the  
17 provisions of Section 250.

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

22 (c) Trusts and estates.

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

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

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

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

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

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

22           (E) For taxable years in which a net operating loss  
23 carryback or carryforward from a taxable year ending  
24 prior to December 31, 1986 is an element of taxable  
25 income under paragraph (1) of subsection (e) or  
26 subparagraph (E) of paragraph (2) of subsection (e),

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

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

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

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

26 (F) For taxable years ending on or after January 1,

1 1989, an amount equal to the tax deducted pursuant to  
2 Section 164 of the Internal Revenue Code if the trust  
3 or estate is claiming the same tax for purposes of the  
4 Illinois foreign tax credit under Section 601 of this  
5 Act;

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

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

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

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

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

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

11          (G-12) An amount equal to the amount otherwise  
12          allowed as a deduction in computing base income for  
13          interest paid, accrued, or incurred, directly or  
14          indirectly, (i) for taxable years ending on or after  
15          December 31, 2004, to a foreign person who would be a  
16          member of the same unitary business group but for the  
17          fact that the foreign person's business activity  
18          outside the United States is 80% or more of the foreign  
19          person's total business activity 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. The addition modification

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

12 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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



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

23 This paragraph shall not apply to the following:

24 (i) any item of intangible expenses or costs  
25 paid, accrued, or incurred, directly or  
26 indirectly, from a transaction with a person who is

1 subject in a foreign country or state, other than a  
2 state which requires mandatory unitary reporting,  
3 to a tax on or measured by net income with respect  
4 to such item; or

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

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

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

20 or

21 (iii) any item of intangible expense or cost  
22 paid, accrued, or incurred, directly or  
23 indirectly, from a transaction with a person if the  
24 taxpayer establishes by clear and convincing  
25 evidence, that the adjustments are unreasonable;  
26 or if the taxpayer and the Director agree in

1 writing to the application or use of an alternative  
2 method of apportionment under Section 304(f);

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

12 (G-14) For taxable years ending on or after  
13 December 31, 2008, an amount equal to the amount of  
14 insurance premium expenses and costs otherwise allowed  
15 as a deduction in computing base income, and that were  
16 paid, accrued, or incurred, directly or indirectly, to  
17 a person who would be a member of the same unitary  
18 business group but for the fact that the person is  
19 prohibited under Section 1501(a)(27) from being  
20 included in the unitary business group because he or  
21 she is ordinarily required to apportion business  
22 income under different subsections of Section 304. The  
23 addition modification required by this subparagraph  
24 shall be reduced to the extent that dividends were  
25 included in base income of the unitary group for the  
26 same taxable year and received by the taxpayer or by a

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

12 (G-15) An amount equal to the credit allowable to  
13 the taxpayer under Section 218(a) of this Act,  
14 determined without regard to Section 218(c) of this  
15 Act~~;~~

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

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

1 Internal Revenue Code and regulations adopted pursuant  
2 thereto;

3 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

26 (2) for taxable years ending on or before



1 December 31, 2005, "x" equals "y" multiplied by 30  
2 and then divided by 70 (or "y" multiplied by  
3 0.429); and

4 (3) for taxable years ending after December  
5 31, 2005:

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

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

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

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

1 equal to that addition modification.

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

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

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

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

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
2 203(d)(2)(D-8), but not to exceed the amount of such  
3 addition modification. This subparagraph (T) is exempt  
4 from the provisions of Section 250;

5 (U) An amount equal to the interest income taken  
6 into account for the taxable year (net of the  
7 deductions allocable thereto) with respect to  
8 transactions with (i) a foreign person who would be a  
9 member of the taxpayer's unitary business group but for  
10 the fact the foreign person's business activity  
11 outside the United States is 80% or more of that  
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, but not to exceed the  
20 addition modification required to be made for the same  
21 taxable year under Section 203(c)(2)(G-12) for  
22 interest paid, accrued, or incurred, directly or  
23 indirectly, to the same person. This subparagraph (U)  
24 is exempt from the provisions of Section 250; and

25 (V) An amount equal to the income from intangible  
26 property taken into account for the taxable year (net

1 of the deductions allocable thereto) with respect to  
2 transactions with (i) a foreign person who would be a  
3 member of the taxpayer's unitary business group but for  
4 the fact that the foreign person's business activity  
5 outside the United States is 80% or more of that  
6 person's total business activity and (ii) for taxable  
7 years ending on or after December 31, 2008, to a person  
8 who would be a member of the same unitary business  
9 group but for the fact that the person is prohibited  
10 under Section 1501(a)(27) from being included in the  
11 unitary business group because he or she is ordinarily  
12 required to apportion business income under different  
13 subsections of Section 304, but not to exceed the  
14 addition modification required to be made for the same  
15 taxable year under Section 203(c)(2)(G-13) for  
16 intangible expenses and costs paid, accrued, or  
17 incurred, directly or indirectly, to the same foreign  
18 person. This subparagraph (V) is exempt from the  
19 provisions of Section 250.

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

1 (d) Partnerships.

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

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

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

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

15 (C) The amount of deductions allowed to the  
16 partnership pursuant to Section 707 (c) of the Internal  
17 Revenue Code in calculating its taxable income;  
18 ~~provided that no addition shall be required under this~~  
19 ~~subparagraph (C) for taxable years ending on or after~~  
20 ~~December 31, 2009, for deductions allowed for~~  
21 ~~guaranteed payments to an individual partner for~~  
22 ~~personal services by that partner;~~

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

1 computation of taxable income;

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

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

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

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

24 (D-7) An amount equal to the amount otherwise  
25 allowed as a deduction in computing base income for  
26 interest paid, accrued, or incurred, directly or

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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



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

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

17 (D-8) An amount equal to the amount of intangible  
18 expenses and costs otherwise allowed as a deduction in  
19 computing base income, and that were paid, accrued, or  
20 incurred, directly or indirectly, (i) for taxable  
21 years ending on or after December 31, 2004, to a  
22 foreign person who would be a member of the same  
23 unitary business group but for the fact that the  
24 foreign person's business activity outside the United  
25 States is 80% or more of that person's total business  
26 activity and (ii) for taxable years ending on or after

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

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

10 This paragraph shall not apply to the following:

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

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

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

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

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

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

25 (D-9) For taxable years ending on or after December  
26 31, 2008, an amount equal to the amount of insurance

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

25 (D-10) An amount equal to the credit allowable to  
26 the taxpayer under Section 218(a) of this Act,

1 determined without regard to Section 218(c) of this  
2 Act;

3 and by deducting from the total so obtained the following  
4 amounts:

5 (E) The valuation limitation amount;

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

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

19 (H) Any ~~For taxable years ending before December~~  
20 ~~31, 2009,~~ income of the partnership which constitutes  
21 personal service income as defined in Section 1348 (b)  
22 (1) of the Internal Revenue Code (as in effect December  
23 31, 1981) or a reasonable allowance for compensation  
24 paid or accrued for services rendered by partners to  
25 the partnership, whichever is greater;

26 (I) An amount equal to all amounts of income

1 distributable to an entity subject to the Personal  
2 Property Tax Replacement Income Tax imposed by  
3 subsections (c) and (d) of Section 201 of this Act  
4 including amounts distributable to organizations  
5 exempt from federal income tax by reason of Section  
6 501(a) of the Internal Revenue Code, provided that the  
7 deduction under this subparagraph (I) shall not be  
8 allowed to a publicly traded partnership under Section  
9 7704 of the Internal Revenue Code for any taxable year  
10 ending on or after December 31, 2009;

11 (J) With the exception of any amounts subtracted  
12 under subparagraph (G), 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, as now or hereafter amended; and (ii) for taxable  
19 years ending on or after August 13, 1999, Sections  
20 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the  
21 Internal Revenue Code; the provisions of this  
22 subparagraph are exempt from the provisions of Section  
23 250;

24 (K) An amount equal to those dividends included in  
25 such total which were paid by a corporation which  
26 conducts business operations in an Enterprise Zone or

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

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

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

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

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



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

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

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

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

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

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

1                   1.0.

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

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

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

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

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

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

18          (R) An amount equal to the interest income taken  
19          into account for the taxable year (net of the  
20          deductions allocable thereto) with respect to  
21          transactions with (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(d)(2)(D-7) for interest  
9           paid, accrued, or incurred, directly or indirectly, to  
10          the same person. This subparagraph (R) is exempt from  
11          Section 250; and

12                 (S) 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(d)(2)(D-8) for  
3           intangible expenses and costs paid, accrued, or  
4           incurred, directly or indirectly, to the same person.  
5           This subparagraph (S) is exempt from Section 250.

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

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

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

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

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

24 (B) Certain other insurance companies. In the case  
25 of mutual insurance companies subject to the tax  
26 imposed by Section 831 of the Internal Revenue Code,

1 insurance company taxable income;

2 (C) Regulated investment companies. In the case of  
3 a regulated investment company subject to the tax  
4 imposed by Section 852 of the Internal Revenue Code,  
5 investment company taxable income;

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

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

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

1           (G) Subchapter S corporations. In the case of: (i)  
2           a Subchapter S corporation for which there is in effect  
3           an election for the taxable year under Section 1362 of  
4           the Internal Revenue Code, the taxable income of such  
5           corporation determined in accordance with Section  
6           1363(b) of the Internal Revenue Code, except that  
7           taxable income shall take into account those items  
8           which are required by Section 1363(b)(1) of the  
9           Internal Revenue Code to be separately stated; and (ii)  
10          a Subchapter S corporation for which there is in effect  
11          a federal election to opt out of the provisions of the  
12          Subchapter S Revision Act of 1982 and have applied  
13          instead the prior federal Subchapter S rules as in  
14          effect on July 1, 1982, the taxable income of such  
15          corporation determined in accordance with the federal  
16          Subchapter S rules as in effect on July 1, 1982; and

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

24          (3) Recapture of business expenses on disposition of  
25          asset or business. Notwithstanding any other law to the  
26          contrary, if in prior years income from an asset or



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

15 (f) Valuation limitation amount.

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

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

24 (B) The lesser of (i) the sum of the pre-August 1,  
25 1969 appreciation amounts (to the extent consisting of

1 capital gain) for all property in respect of which such  
2 gain was reported for federal income tax purposes for  
3 the taxable year, or (ii) the net capital gain for the  
4 taxable year, reduced in either case by any amount of  
5 such gain included in the amount determined under  
6 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

1 property ending July 31, 1969 bears to the number of  
2 full calendar months in the taxpayer's entire holding  
3 period for the property.

4 (C) The Department shall prescribe such  
5 regulations as may be necessary to carry out the  
6 purposes of this paragraph.

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

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

19 (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,  
20 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;  
21 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09;  
22 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff.  
23 8-14-09; revised 9-25-09.)

24 Section 99. Effective date. This Act takes effect upon

1 becoming law.