



Sen. James F. Clayborne Jr.

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1 AMENDMENT TO SENATE BILL 77

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 77 on page 1, line  
3 4, after "by", by inserting "changing Section 203 and by"; and

4 on page 1, immediately below line 5, by inserting the  
5 following:

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

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

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

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

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  
26 computation of adjusted gross income;

1           (D-5) An amount, to the extent not included in  
2 adjusted gross income, equal to the amount of money  
3 withdrawn by the taxpayer in the taxable year from a  
4 medical care savings account and the interest earned on  
5 the account in the taxable year of a withdrawal  
6 pursuant to subsection (b) of Section 20 of the Medical  
7 Care Savings Account Act or subsection (b) of Section  
8 20 of the Medical Care Savings Account Act of 2000;

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

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

19           (D-16) If the taxpayer sells, transfers, abandons,  
20 or otherwise disposes of property for which the  
21 taxpayer was required in any taxable year to make an  
22 addition modification under subparagraph (D-15), then  
23 an amount equal to the aggregate amount of the  
24 deductions taken in all taxable years under  
25 subparagraph (Z) with respect to that property.

26           If the taxpayer continues to own property through

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

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

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

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

10 This paragraph shall not apply to the following:

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

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

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

25 (b) the transaction giving rise to the  
26 interest expense between the taxpayer and the

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

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

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

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

1           under Section 404 of this Act;

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

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

21 This paragraph shall not apply to the following:

22 (i) any item of intangible expenses or costs  
23 paid, accrued, or incurred, directly or  
24 indirectly, from a transaction with a person who is  
25 subject in a foreign country or state, other than a  
26 state which requires mandatory unitary reporting,



1 to a tax on or measured by net income with respect  
2 to such item; or

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

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

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

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

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

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

1 Sections 951 through 964 of the Internal Revenue Code  
2 and amounts included in gross income under Section 78  
3 of the Internal Revenue Code) with respect to the stock  
4 of the same person to whom the premiums and costs were  
5 directly or indirectly paid, incurred, or accrued. The  
6 preceding sentence does not apply to the extent that  
7 the same dividends caused a reduction to the addition  
8 modification required under Section 203(a) (2) (D-17) or  
9 Section 203(a) (2) (D-18) of this Act.

10 (D-20) For taxable years beginning on or after  
11 January 1, 2002 and ending on or before December 31,  
12 2006, in the case of a distribution from a qualified  
13 tuition program under Section 529 of the Internal  
14 Revenue Code, other than (i) a distribution from a  
15 College Savings Pool created under Section 16.5 of the  
16 State Treasurer Act or (ii) a distribution from the  
17 Illinois Prepaid Tuition Trust Fund, an amount equal to  
18 the amount excluded from gross income under Section  
19 529(c) (3) (B). For taxable years beginning on or after  
20 January 1, 2007, in the case of a distribution from a  
21 qualified tuition program under Section 529 of the  
22 Internal Revenue Code, other than (i) a distribution  
23 from a College Savings Pool created under Section 16.5  
24 of the State Treasurer Act, (ii) a distribution from  
25 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
26 distribution from a qualified tuition program under

1 Section 529 of the Internal Revenue Code that (I)  
2 adopts and determines that its offering materials  
3 comply with the College Savings Plans Network's  
4 disclosure principles and (II) has made reasonable  
5 efforts to inform in-state residents of the existence  
6 of in-state qualified tuition programs by informing  
7 Illinois residents directly and, where applicable, to  
8 inform financial intermediaries distributing the  
9 program to inform in-state residents of the existence  
10 of in-state qualified tuition programs at least  
11 annually, an amount equal to the amount excluded from  
12 gross income under Section 529(c) (3) (B) .

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

25 (D-21) For taxable years beginning on or after  
26 January 1, 2007, in the case of transfer of moneys from

1 a qualified tuition program under Section 529 of the  
2 Internal Revenue Code that is administered by the State  
3 to an out-of-state program, an amount equal to the  
4 amount of moneys previously deducted from base income  
5 under subsection (a) (2) (Y) of this Section.

6 (D-22) An amount equal to the credit allowable to  
7 the taxpayer under Section 218(a) of this Act,  
8 determined without regard to Section 218(c) of this  
9 Act.

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

12 (E) For taxable years ending before December 31,  
13 2001, any amount included in such total in respect of  
14 any compensation (including but not limited to any  
15 compensation paid or accrued to a serviceman while a  
16 prisoner of war or missing in action) paid to a  
17 resident by reason of being on active duty in the Armed  
18 Forces of the United States and in respect of any  
19 compensation paid or accrued to a resident who as a  
20 governmental employee was a prisoner of war or missing  
21 in action, and in respect of any compensation paid to a  
22 resident in 1971 or thereafter for annual training  
23 performed pursuant to Sections 502 and 503, Title 32,  
24 United States Code as a member of the Illinois National  
25 Guard or, beginning with taxable years ending on or  
26 after December 31, 2007, the National Guard of any

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

18 (F) 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 (G) The valuation limitation amount;

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

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

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

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

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

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

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



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

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

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

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

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

21 (S) An amount, to the extent included in adjusted  
22 gross income, equal to the amount of a contribution  
23 made in the taxable year on behalf of the taxpayer to a  
24 medical care savings account established under the  
25 Medical Care Savings Account Act or the Medical Care  
26 Savings Account Act of 2000 to the extent the

1 contribution is accepted by the account administrator  
2 as provided in that Act;

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

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

16 (V) Beginning with tax years ending on or after  
17 December 31, 1995 and ending with tax years ending on  
18 or before December 31, 2004, an amount equal to the  
19 amount paid by a taxpayer who is a self-employed  
20 taxpayer, a partner of a partnership, or a shareholder  
21 in a Subchapter S corporation for health insurance or  
22 long-term care insurance for that taxpayer or that  
23 taxpayer's spouse or dependents, to the extent that the  
24 amount paid for that health insurance or long-term care  
25 insurance may be deducted under Section 213 of the  
26 Internal Revenue Code of 1986, has not been deducted on

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

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

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

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

1 purposes. This paragraph is exempt from the provisions  
2 of Section 250;

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

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

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

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

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

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

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

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

26 The aggregate amount deducted under this

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

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

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

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

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

25          (BB) Any amount included in adjusted gross income,  
26          other than salary, received by a driver in a

1 ridesharing arrangement using a motor vehicle;

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

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



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

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

1 subsections of Section 304, but not to exceed the  
2 addition modification required to be made for the same  
3 taxable year under Section 203(a)(2)(D-18) for  
4 intangible expenses and costs paid, accrued, or  
5 incurred, directly or indirectly, to the same foreign  
6 person. This subparagraph (EE) is exempt from the  
7 provisions of Section 250.

8 (b) Corporations.

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

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

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

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

23 (C) In the case of a regulated investment company,  
24 an amount equal to the excess of (i) the net long-term  
25 capital gain for the taxable year, over (ii) the amount

1 of the capital gain dividends designated as such in  
2 accordance with Section 852(b)(3)(C) of the Internal  
3 Revenue Code and any amount designated under Section  
4 852(b)(3)(D) of the Internal Revenue Code,  
5 attributable to the taxable year (this amendatory Act  
6 of 1995 (Public Act 89-89) is declarative of existing  
7 law and is not a new enactment);

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

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

22 (i) the addition modification relating to the  
23 net operating loss carried back or forward to the  
24 taxable year from any taxable year ending prior to  
25 December 31, 1986 shall be reduced by the amount of  
26 addition modification under this subparagraph (E)

1           which related to that net operating loss and which  
2           was taken into account in calculating the base  
3           income of an earlier taxable year, and

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

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

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

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

26          (E-11) If the taxpayer sells, transfers, abandons,

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

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

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

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

18                 This paragraph shall not apply to the following:

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

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

1           the taxpayer can establish, based on a  
2           preponderance of the evidence, both of the  
3           following:

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

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

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

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

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

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



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

1 marks, copyrights, mask works, trade secrets, and  
2 similar types of intangible assets.

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

18          (E-14) For taxable years ending on or after  
19          December 31, 2008, an amount equal to the amount of  
20          insurance premium expenses and costs otherwise allowed  
21          as a deduction in computing base income, and that were  
22          paid, accrued, or incurred, directly or indirectly, to  
23          a person who would be a member of the same unitary  
24          business group but for the fact that the person is  
25          prohibited under Section 1501(a)(27) from being  
26          included in the unitary business group because he or

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

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

23 (E-16) An amount equal to the credit allowable to  
24 the taxpayer under Section 218(a) of this Act,  
25 determined without regard to Section 218(c) of this  
26 Act.

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

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

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

8 (H) In the case of a regulated investment company,  
9 an amount equal to the amount of exempt interest  
10 dividends as defined in subsection (b) (5) of Section  
11 852 of the Internal Revenue Code, paid to shareholders  
12 for the taxable year;

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

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

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

20           (L) An amount equal to those dividends included in  
21 such total that were paid by a corporation that  
22 conducts business operations in a federally designated  
23 Foreign Trade Zone or Sub-Zone and that is designated a  
24 High Impact Business located in Illinois; provided  
25 that dividends eligible for the deduction provided in  
26 subparagraph (K) of paragraph 2 of this subsection

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

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

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

26           (N) Two times any contribution made during the



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

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

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

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

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

1           (R) On and after July 20, 1999, in the case of an  
2 attorney-in-fact with respect to whom an interinsurer  
3 or a reciprocal insurer has made the election under  
4 Section 835 of the Internal Revenue Code, 26 U.S.C.  
5 835, an amount equal to the excess, if any, of the  
6 amounts paid or incurred by that interinsurer or  
7 reciprocal insurer in the taxable year to the  
8 attorney-in-fact over the deduction allowed to that  
9 interinsurer or reciprocal insurer with respect to the  
10 attorney-in-fact under Section 835(b) of the Internal  
11 Revenue Code for the taxable year; the provisions of  
12 this subparagraph are exempt from the provisions of  
13 Section 250;

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

24           (T) For taxable years 2001 and thereafter, for the  
25 taxable year in which the bonus depreciation deduction  
26 is taken on the taxpayer's federal income tax return

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

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

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

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

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

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

26 The aggregate amount deducted under this

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

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

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

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

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

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

1           for the taxable year with respect to a transaction with  
2           a taxpayer that is required to make an addition  
3           modification with respect to such transaction under  
4           Section           203(a)(2)(D-17),           203(b)(2)(E-12),  
5           203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
6           the amount of such addition modification, (ii) any  
7           income from intangible property (net of the deductions  
8           allocable thereto) taken into account for the taxable  
9           year with respect to a transaction with a taxpayer that  
10          is required to make an addition modification with  
11          respect to such transaction under Section  
12          203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
13          203(d)(2)(D-8), but not to exceed the amount of such  
14          addition modification, and (iii) any insurance premium  
15          income (net of deductions allocable thereto) taken  
16          into account for the taxable year with respect to a  
17          transaction with a taxpayer that is required to make an  
18          addition modification with respect to such transaction  
19          under           Section           203(a)(2)(D-19),           Section  
20          203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
21          203(d)(2)(D-9), but not to exceed the amount of that  
22          addition modification. This subparagraph (V) is exempt  
23          from the provisions of Section 250;

24               (W) 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(b)(2)(E-12) for  
15 interest paid, accrued, or incurred, directly or  
16 indirectly, to the same person. This subparagraph (W)  
17 is exempt from the provisions of Section 250; and

18 (X) 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(b)(2)(E-13) for  
9           intangible expenses and costs paid, accrued, or  
10          incurred, directly or indirectly, to the same foreign  
11          person. This subparagraph (X) is exempt from the  
12          provisions of Section 250. ~~(Y)~~

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

17          (c) Trusts and estates.

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

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

25                       (A) An amount equal to all amounts paid or accrued



1 to the taxpayer as interest or dividends during the  
2 taxable year to the extent excluded from gross income  
3 in the computation of taxable income;

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

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

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 taxable year, with  
25 the following limitations applied in the order that  
26 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           (F) For taxable years ending on or after January 1,  
22 1989, an amount equal to the tax deducted pursuant to  
23 Section 164 of the Internal Revenue Code if the trust  
24 or estate is claiming the same tax for purposes of the  
25 Illinois foreign tax credit under Section 601 of this  
26 Act;

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

5           (G-5) For taxable years ending after December 31,  
6 1997, an amount equal to any eligible remediation costs  
7 that the trust or estate deducted in computing adjusted  
8 gross income and for which the trust or estate claims a  
9 credit under subsection (l) of Section 201;

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

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

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

1 modification under subparagraph (R), then an amount  
2 equal to that subtraction modification.

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

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

1 included in gross income pursuant to Sections 951  
2 through 964 of the Internal Revenue Code and amounts  
3 included in gross income under Section 78 of the  
4 Internal Revenue Code) with respect to the stock of the  
5 same person to whom the interest was paid, accrued, or  
6 incurred.

7 This paragraph shall not apply to the following:

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

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

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

22 (b) the transaction giving rise to the  
23 interest expense between the taxpayer and the  
24 person did not have as a principal purpose the  
25 avoidance of Illinois income tax, and is paid  
26 pursuant to a contract or agreement that

1           reflects an arm's-length interest rate and  
2           terms; or

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

9           (iv) an item of interest paid, accrued, or  
10          incurred, directly or indirectly, to a person if  
11          the taxpayer establishes by clear and convincing  
12          evidence that the adjustments are unreasonable; or  
13          if the taxpayer and the Director agree in writing  
14          to the application or use of an alternative method  
15          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          (G-13) An amount equal to the amount of intangible  
26          expenses and costs otherwise allowed as a deduction in

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

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

18 This paragraph shall not apply to the following:

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

26 (ii) any item of intangible expense or cost



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

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

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

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

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

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

7           (G-14) For taxable years ending on or after  
8           December 31, 2008, an amount equal to the amount of  
9           insurance premium expenses and costs otherwise allowed  
10          as a deduction in computing base income, and that were  
11          paid, accrued, or incurred, directly or indirectly, to  
12          a person who would be a member of the same unitary  
13          business group but for the fact that the person is  
14          prohibited under Section 1501(a)(27) from being  
15          included in the unitary business group because he or  
16          she is ordinarily required to apportion business  
17          income under different subsections of Section 304. The  
18          addition modification required by this subparagraph  
19          shall be reduced to the extent that dividends were  
20          included in base income of the unitary group for the  
21          same taxable year and received by the taxpayer or by a  
22          member of the taxpayer's unitary business group  
23          (including amounts included in gross income under  
24          Sections 951 through 964 of the Internal Revenue Code  
25          and amounts included in gross income under Section 78  
26          of the Internal Revenue Code) with respect to the stock

1 of the same person to whom the premiums and costs were  
2 directly or indirectly paid, incurred, or accrued. The  
3 preceding sentence does not apply to the extent that  
4 the same dividends caused a reduction to the addition  
5 modification required under Section 203(c) (2) (G-12) or  
6 Section 203(c) (2) (G-13) of this Act.

7 (G-15) An amount equal to the credit allowable to  
8 the taxpayer under Section 218(a) of this Act,  
9 determined without regard to Section 218(c) of this  
10 Act.

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

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

24 (I) The valuation limitation amount;

25 (J) An amount equal to the amount of any tax  
26 imposed by this Act which was refunded to the taxpayer

1 and included in such total for the taxable year;

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

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

26 (M) An amount equal to those dividends included in

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

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

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

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

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

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

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

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

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

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

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

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

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



1           was required in any taxable year to make an addition  
2           modification under subparagraph (G-10), then an amount  
3           equal to that addition modification.

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

7           This subparagraph (S) is exempt from the  
8           provisions of Section 250;

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

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

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

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

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

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

22 (d) Partnerships.

23 (1) In general. In the case of a partnership, 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. The taxable income referred to in  
2 paragraph (1) shall be modified by adding thereto the sum  
3 of the following amounts:

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

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

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

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

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

23           (D-6) If the taxpayer sells, transfers, abandons,  
24 or otherwise disposes of property for which the  
25 taxpayer was required in any taxable year to make an  
26 addition modification under subparagraph (D-5), then

1 an amount equal to the aggregate amount of the  
2 deductions taken in all taxable years under  
3 subparagraph (O) with respect to that property.

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

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

14 (D-7) An amount equal to the amount otherwise  
15 allowed as a deduction in computing base income for  
16 interest paid, accrued, or incurred, directly or  
17 indirectly, (i) for taxable years ending on or after  
18 December 31, 2004, to a foreign person who would be a  
19 member of the same unitary business group but for the  
20 fact the foreign person's business activity outside  
21 the United States is 80% or more of the foreign  
22 person's total business activity and (ii) for taxable  
23 years ending on or after December 31, 2008, to a person  
24 who would be a member of the same unitary business  
25 group but for the fact that the person is prohibited  
26 under Section 1501(a)(27) from being included in the

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

15 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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



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

26 This paragraph shall not apply to the following:

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

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

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

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

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

1 taxpayer establishes by clear and convincing  
2 evidence, that the adjustments are unreasonable;  
3 or if the taxpayer and the Director agree in  
4 writing to the application or use of an alternative  
5 method 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 (D-9) For taxable years ending on or after December  
16 31, 2008, an amount equal to the amount of insurance  
17 premium expenses and costs otherwise allowed as a  
18 deduction in computing base income, and that were paid,  
19 accrued, or incurred, directly or indirectly, to a  
20 person who would be a member of the same unitary  
21 business group but for the fact that the person is  
22 prohibited under Section 1501(a)(27) from being  
23 included in the unitary business group because he or  
24 she is ordinarily required to apportion business  
25 income under different subsections of Section 304. The  
26 addition modification required by this subparagraph

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

15 (D-10) An amount equal to the credit allowable to  
16 the taxpayer under Section 218(a) of this Act,  
17 determined without regard to Section 218(c) of this  
18 Act.

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

21 (E) The valuation limitation amount;

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

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

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

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

15 (I) An amount equal to all amounts of income  
16 distributable to an entity subject to the Personal  
17 Property Tax Replacement Income Tax imposed by  
18 subsections (c) and (d) of Section 201 of this Act  
19 including amounts distributable to organizations  
20 exempt from federal income tax by reason of Section  
21 501(a) of the Internal Revenue Code;

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

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

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

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

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

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

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

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

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

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

1           0.429); and

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

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

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

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

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

26           If the taxpayer continues to own property through



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

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

10          This subparagraph (P) is exempt from the  
11          provisions of Section 250;

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

1 addition modification. This subparagraph (Q) is exempt  
2 from Section 250;

3 (R) 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(d)(2)(D-7) for interest  
20 paid, accrued, or incurred, directly or indirectly, to  
21 the same person. This subparagraph (R) is exempt from  
22 Section 250; and

23 (S) 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(d)(2)(D-8) for  
14 intangible expenses and costs paid, accrued, or  
15 incurred, directly or indirectly, to the same person.  
16 This subparagraph (S) is exempt from Section 250. ~~(T)~~

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

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

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

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

1 federal income tax purposes shall mean:

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

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

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

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

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

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

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

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

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

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

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

1 (f) Valuation limitation amount.

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

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

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

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

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



1           and reportable for federal income tax purposes in  
2           respect of the sale, exchange or other disposition of  
3           such property.

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

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

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

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

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

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

11 on page 1, by replacing lines 10 through 12 with "the taxable  
12 year, makes a contribution (i) to a specified"; and

13 on page 1, line 15, after "Fund" by inserting "in an amount  
14 matching a contribution made in the same taxable year by an  
15 employee of the taxpayer to that Account or Fund"; and

16 on page 1, line 17, by replacing "donation" with  
17 "contribution"; and

18 on page 2, line 7, by replacing "3" with "5"; and

19 on page 2, line 15, by replacing "donation" with  
20 "contribution".