

SB3068



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3068

Introduced 2/8/2010, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. For taxable years ending on or after December 31, 2008, creates a deduction for financial organizations in an amount equal to the amount included in the organization's adjusted gross income as interest income from a residential mortgage loan if the mortgagor is a person with at least a 50% ownership interest in a business located in an Enterprise Zone or a River Edge Redevelopment Zone. Provides that the financial organization must apply the Illinois income tax savings to the principal of the loan. Allows the organization to file amended returns. Effective immediately.

LRB096 19868 HLH 35326 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 The taxpayer is required to make the addition

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

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

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

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

14 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (G) The valuation limitation amount;

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

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

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

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

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

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

1 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 piece of property.

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

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

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

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

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

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

1 who would be a member of the same unitary business
2 group but for the fact that the person is prohibited
3 under Section 1501(a)(27) from being included in the
4 unitary business group because he or she is ordinarily
5 required to apportion business income under different
6 subsections of Section 304, but not to exceed the
7 addition modification required to be made for the same
8 taxable year under Section 203(a)(2)(D-18) for
9 intangible expenses and costs paid, accrued, or
10 incurred, directly or indirectly, to the same foreign
11 person. This subparagraph (EE) is exempt from the
12 provisions of Section 250.

13 (b) Corporations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

8 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

1 the Internal Revenue Code for dividends paid;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (M-2) For taxable years ending on or after December
6 31, 2008, for any taxpayer that is a financial
7 organization within the meaning of Section 304(c) of
8 this Act, an amount included in such total as interest
9 income from a residential mortgage loan if the
10 mortgagor is a person with at least a 50% ownership
11 interest in a business located in an Enterprise Zone or
12 a River Edge Redevelopment Zone. Taxpayers who are
13 eligible for a deduction under this subparagraph (M-2)
14 for taxable years ending on or after December 31, 2008
15 and prior to December 31, 2010 may file amended returns
16 for those taxable years with the Department. The
17 financial institution must apply the amount of its
18 Illinois income tax savings attributable to a
19 deduction under this subparagraph (M-2) to the
20 principal of the loan within 90 days after the
21 organization files its Illinois income tax return, or
22 amended return, for that taxable year;

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

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

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

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

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

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

24 (R) On and after July 20, 1999, in the case of an
25 attorney-in-fact with respect to whom an interinsurer
26 or a reciprocal insurer has made the election under

1 Section 835 of the Internal Revenue Code, 26 U.S.C.
2 835, an amount equal to the excess, if any, of the
3 amounts paid or incurred by that interinsurer or
4 reciprocal insurer in the taxable year to the
5 attorney-in-fact over the deduction allowed to that
6 interinsurer or reciprocal insurer with respect to the
7 attorney-in-fact under Section 835(b) of the Internal
8 Revenue Code for the taxable year; the provisions of
9 this subparagraph are exempt from the provisions of
10 Section 250;

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

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

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

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

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

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

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

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

1 taxpayer's federal income tax return under subsection
2 (k) of Section 168 of the Internal Revenue Code. This
3 subparagraph (T) is exempt from the provisions of
4 Section 250;

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

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

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

20 This subparagraph (U) is exempt from the
21 provisions of Section 250;

22 (V) The amount of: (i) any interest income (net of
23 the deductions allocable thereto) taken into account
24 for the taxable year with respect to a transaction with
25 a taxpayer that is required to make an addition
26 modification with respect to such transaction under

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

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

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

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

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304, but not to exceed the
4 addition modification required to be made for the same
5 taxable year under Section 203(b)(2)(E-13) for
6 intangible expenses and costs paid, accrued, or
7 incurred, directly or indirectly, to the same foreign
8 person. This subparagraph (X) is exempt from the
9 provisions of Section 250.

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

14 (c) Trusts and estates.

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

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

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

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

7 (C) 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 taxable income for the taxable year;

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

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

24 (i) the addition modification relating to the
25 net operating loss carried back or forward to the
26 taxable year from any taxable year ending prior to

1 December 31, 1986 shall be reduced by the amount of
2 addition modification under this subparagraph (E)
3 which related to that net operating loss and which
4 was taken into account in calculating the base
5 income of an earlier taxable year, and

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

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

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

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

1 computation of taxable income;

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

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

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

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

26 The taxpayer is required to make the addition

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

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

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

4 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) the taxpayer can establish, based on

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

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

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

22 (G-13) An amount equal to the amount of intangible
23 expenses and costs otherwise allowed as a deduction in
24 computing base income, and that were paid, accrued, or
25 incurred, directly or indirectly, (i) for taxable
26 years ending on or after December 31, 2004, to a

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

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

15 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

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

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

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

1 the same dividends caused a reduction to the addition
2 modification required under Section 203(c) (2) (G-12) or
3 Section 203(c) (2) (G-13) of this Act;

4 (G-15) An amount equal to the credit allowable to
5 the taxpayer under Section 218(a) of this Act,
6 determined without regard to Section 218(c) of this
7 Act;

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

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

21 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (U) An amount equal to the interest income taken
24 into account for the taxable year (net of the
25 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 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(c)(2)(G-12) for
14 interest paid, accrued, or incurred, directly or
15 indirectly, to the same person. This subparagraph (U)
16 is exempt from the provisions of Section 250; and

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

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

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

19 (d) Partnerships.

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

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

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

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

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

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

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

20 (D-6) If the taxpayer sells, transfers, abandons,
21 or otherwise disposes of property for which the
22 taxpayer was required in any taxable year to make an
23 addition modification under subparagraph (D-5), then
24 an amount equal to the aggregate amount of the
25 deductions taken in all taxable years under
26 subparagraph (O) with respect to that property.

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

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

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

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

12 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

23 This paragraph shall not apply to the following:

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

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

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

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

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

20 or

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

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

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

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

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

12 (D-10) An amount equal to the credit allowable to
13 the taxpayer under Section 218(a) of this Act,
14 determined without regard to Section 218(c) of this
15 Act;

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

18 (E) The valuation limitation amount;

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

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

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

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

12 (I) An amount equal to all amounts of income
13 distributable to an entity subject to the Personal
14 Property Tax Replacement Income Tax imposed by
15 subsections (c) and (d) of Section 201 of this Act
16 including amounts distributable to organizations
17 exempt from federal income tax by reason of Section
18 501(a) of the Internal Revenue Code, provided that the
19 deduction under this subparagraph (I) shall not be
20 allowed to a publicly traded partnership under Section
21 7704 of the Internal Revenue Code for any taxable year
22 ending on or after December 31, 2009;

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

1 1954, as now or hereafter amended, and all amounts of
2 expenses allocable to interest and disallowed as
3 deductions by Section 265(1) of the Internal Revenue
4 Code, as now or hereafter amended; and (ii) for taxable
5 years ending on or after August 13, 1999, Sections
6 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the
7 Internal Revenue Code; the provisions of this
8 subparagraph are exempt from the provisions of Section
9 250;

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,
14 enacted by the 82nd General Assembly, or a River Edge
15 Redevelopment Zone or zones created under the River
16 Edge Redevelopment Zone Act and conducts substantially
17 all of its operations in an Enterprise Zone or Zones or
18 from a River Edge Redevelopment Zone or zones. This
19 subparagraph (K) is exempt from the provisions of
20 Section 250;

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

24 (M) An amount equal to those dividends included in
25 such total that were paid by a corporation that
26 conducts business operations in a federally designated

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 203(d) (2) (D-8), but not to exceed the amount of such
2 addition modification. This subparagraph (Q) is exempt
3 from Section 250;

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

24 (S) An amount equal to the income from intangible
25 property taken into account for the taxable year (net
26 of the 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(d)(2)(D-8) for
15 intangible expenses and costs paid, accrued, or
16 incurred, directly or indirectly, to the same person.
17 This subparagraph (S) is exempt from Section 250.

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

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

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

26 (2) Special rule. For purposes of paragraph (1) of this

1 subsection, the taxable income properly reportable for
2 federal income tax purposes shall mean:

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

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

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

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

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

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

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

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

1 corporation determined in accordance with the federal
2 Subchapter S rules as in effect on July 1, 1982; and

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

10 (3) Recapture of business expenses on disposition of
11 asset or business. Notwithstanding any other law to the
12 contrary, if in prior years income from an asset or
13 business has been classified as business income and in a
14 later year is demonstrated to be non-business income, then
15 all expenses, without limitation, deducted in such later
16 year and in the 2 immediately preceding taxable years
17 related to that asset or business that generated the
18 non-business income shall be added back and recaptured as
19 business income in the year of the disposition of the asset
20 or business. Such amount shall be apportioned to Illinois
21 using the greater of the apportionment fraction computed
22 for the business under Section 304 of this Act for the
23 taxable year or the average of the apportionment fractions
24 computed for the business under Section 304 of this Act for
25 the taxable year and for the 2 immediately preceding
26 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

1 effect on that date), or (ii) the total gain realized
2 and reportable for federal income tax purposes in
3 respect of the sale, exchange or other disposition of
4 such property.

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

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

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

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

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

7 (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,
8 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
9 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09;
10 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff.
11 8-14-09; 96-835, eff. 12-16-09.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.