

SB3648



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3648

Introduced 2/11/2010, by Sen. Rickey R. Hendon

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Creates a deduction in an amount equal to any amount awarded to the taxpayer during the taxable year by the Court of Claims for time unjustly served in a State prison. Effective immediately.

LRB096 14906 HLH 29789 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 The taxpayer is required to make the addition

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

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

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

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

14 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (G) The valuation limitation amount;

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

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

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

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

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

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

1 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 piece of property.

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

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

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

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

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

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

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

13 (FF) An amount equal to any amount awarded to the
14 taxpayer during the taxable year by the Court of Claims
15 under subsection (c) of Section 8 of the Court of
16 Claims Act for time unjustly served in a State prison.
17 This subparagraph (FF) is exempt from the provisions of
18 Section 250.

19 (b) Corporations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 respect to any one piece of property;

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

1 same person to whom the interest was paid, accrued, or
2 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 (E-13) 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 pursuant to Sections 951 through 964 of the
18 Internal Revenue Code and amounts included in gross
19 income under Section 78 of the Internal Revenue Code)
20 with respect to the stock of the same person to whom
21 the intangible expenses and costs were directly or
22 indirectly paid, incurred, or accrued. The preceding
23 sentence shall not apply to the extent that the same
24 dividends caused a reduction to the addition
25 modification required under Section 203(b)(2)(E-12) of
26 this Act. As used in this subparagraph, the term

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

3 (E-15) For taxable years beginning after December
4 31, 2008, any deduction for dividends paid by a captive
5 real estate investment trust that is allowed to a real
6 estate investment trust under Section 857(b) (2) (B) of
7 the Internal Revenue Code for dividends paid;

8 (E-16) An amount equal to the credit allowable to
9 the taxpayer under Section 218(a) of this Act,
10 determined without regard to Section 218(c) of this
11 Act;

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

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

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

19 (H) In the case of a regulated investment company,
20 an amount equal to the amount of exempt interest
21 dividends as defined in subsection (b) (5) of Section
22 852 of the Internal Revenue Code, paid to shareholders
23 for the taxable year;

24 (I) With the exception of any amounts subtracted
25 under subparagraph (J), an amount equal to the sum of
26 all amounts disallowed as deductions by (i) Sections

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

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

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

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

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

14 (M) For any taxpayer that is a financial
15 organization within the meaning of Section 304(c) of
16 this Act, an amount included in such total as interest
17 income from a loan or loans made by such taxpayer to a
18 borrower, to the extent that such a loan is secured by
19 property which is eligible for the Enterprise Zone
20 Investment Credit or the River Edge Redevelopment Zone
21 Investment Credit. To determine the portion of a loan
22 or loans that is secured by property eligible for a
23 Section 201(f) investment credit to the borrower, the
24 entire principal amount of the loan or loans between
25 the taxpayer and the borrower should be divided into
26 the basis of the Section 201(f) investment credit

1 property which secures the loan or loans, using for
2 this purpose the original basis of such property on the
3 date that it was placed in service in the Enterprise
4 Zone or the River Edge Redevelopment Zone. The
5 subtraction modification available to taxpayer in any
6 year under this subsection shall be that portion of the
7 total interest paid by the borrower with respect to
8 such loan attributable to the eligible property as
9 calculated under the previous sentence. This
10 subparagraph (M) is exempt from the provisions of
11 Section 250;

12 (M-1) For any taxpayer that is a financial
13 organization within the meaning of Section 304(c) of
14 this Act, an amount included in such total as interest
15 income from a loan or loans made by such taxpayer to a
16 borrower, to the extent that such a loan is secured by
17 property which is eligible for the High Impact Business
18 Investment Credit. To determine the portion of a loan
19 or loans that is secured by property eligible for a
20 Section 201(h) investment credit to the borrower, the
21 entire principal amount of the loan or loans between
22 the taxpayer and the borrower should be divided into
23 the basis of the Section 201(h) investment credit
24 property which secures the loan or loans, using for
25 this purpose the original basis of such property on the
26 date that it was placed in service in a federally

1 designated Foreign Trade Zone or Sub-Zone located in
2 Illinois. No taxpayer that is eligible for the
3 deduction provided in subparagraph (M) of paragraph
4 (2) of this subsection shall be eligible for the
5 deduction provided under this subparagraph (M-1). The
6 subtraction modification available to taxpayers in any
7 year under this subsection shall be that portion of the
8 total interest paid by the borrower with respect to
9 such loan attributable to the eligible property as
10 calculated under the previous sentence;

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

22 (O) An amount equal to: (i) 85% for taxable years
23 ending on or before December 31, 1992, or, a percentage
24 equal to the percentage allowable under Section
25 243(a)(1) of the Internal Revenue Code of 1986 for
26 taxable years ending after December 31, 1992, of the

1 amount by which dividends included in taxable income
2 and received from a corporation that is not created or
3 organized under the laws of the United States or any
4 state or political subdivision thereof, including, for
5 taxable years ending on or after December 31, 1988,
6 dividends received or deemed received or paid or deemed
7 paid under Sections 951 through 964 of the Internal
8 Revenue Code, exceed the amount of the modification
9 provided under subparagraph (G) of paragraph (2) of
10 this subsection (b) which is related to such dividends,
11 and including, for taxable years ending on or after
12 December 31, 2008, dividends received from a captive
13 real estate investment trust; plus (ii) 100% of the
14 amount by which dividends, included in taxable income
15 and received, including, for taxable years ending on or
16 after December 31, 1988, dividends received or deemed
17 received or paid or deemed paid under Sections 951
18 through 964 of the Internal Revenue Code and including,
19 for taxable years ending on or after December 31, 2008,
20 dividends received from a captive real estate
21 investment trust, from any such corporation specified
22 in clause (i) that would but for the provisions of
23 Section 1504 (b) (3) of the Internal Revenue Code be
24 treated as a member of the affiliated group which
25 includes the dividend recipient, exceed the amount of
26 the modification provided under subparagraph (G) of

1 paragraph (2) of this subsection (b) which is related
2 to such dividends. This subparagraph (O) is exempt from
3 the provisions of Section 250 of this Act;

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

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

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

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

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

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

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

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

26 (3) for taxable years ending after December

1 31, 2005:

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

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

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

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

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

1 federal income tax purposes and for which the taxpayer
2 was required in any taxable year to make an addition
3 modification under subparagraph (E-10), then an amount
4 equal to that addition modification.

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

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

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

1 into account for the taxable year with respect to a
2 transaction with a taxpayer that is required to make an
3 addition modification with respect to such transaction
4 under Section 203(a)(2)(D-19), Section
5 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
6 203(d)(2)(D-9), but not to exceed the amount of that
7 addition modification. This subparagraph (V) is exempt
8 from the provisions of Section 250;

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

1 indirectly, to the same person. This subparagraph (W)
2 is exempt from the provisions of Section 250; and

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

24 (3) Special rule. For purposes of paragraph (2) (A),
25 "gross income" in the case of a life insurance company, for
26 tax years ending on and after December 31, 1994, shall mean

1 the gross investment income for the taxable year.

2 (c) Trusts and estates.

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

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

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

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

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

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

1 ending prior to December 31, 1986;

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

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

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

25 For taxable years in which there is a net operating
26 loss carryback or carryforward from more than one other

1 taxable year ending prior to December 31, 1986, the
2 addition modification provided in this subparagraph
3 (E) shall be the sum of the amounts computed
4 independently under the preceding provisions of this
5 subparagraph (E) for each such taxable year;

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

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

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

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

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

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

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

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

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

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

18 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

18 (G-15) An amount equal to the credit allowable to
19 the taxpayer under Section 218(a) of this Act,
20 determined without regard to Section 218(c) of this
21 Act;~~;~~

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

24 (H) An amount equal to all amounts included in such
25 total pursuant to the provisions of Sections 402(a),
26 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the

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

9 (I) The valuation limitation amount;

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

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

24 (L) With the exception of any amounts subtracted
25 under subparagraph (K), an amount equal to the sum of
26 all amounts disallowed as deductions by (i) Sections

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

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

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

24 (O) 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 (M) of paragraph (2) of this subsection
5 shall not be eligible for the deduction provided under
6 this subparagraph (O);

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

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

19 (R) For taxable years 2001 and thereafter, for the
20 taxable year in which the bonus depreciation deduction
21 is taken on the taxpayer's federal income tax return
22 under subsection (k) of Section 168 of the Internal
23 Revenue Code and for each applicable taxable year
24 thereafter, an amount equal to "x", where:

25 (1) "y" equals the amount of the depreciation
26 deduction taken for the taxable year on the

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

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

10 (3) for taxable years ending after December
11 31, 2005:

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

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

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

1 subparagraph (R) is exempt from the provisions of
2 Section 250;

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

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

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

18 This subparagraph (S) is exempt from the
19 provisions of Section 250;

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

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

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

1 taxable year under Section 203(c)(2)(G-12) for
2 interest paid, accrued, or incurred, directly or
3 indirectly, to the same person. This subparagraph (U)
4 is exempt from the provisions of Section 250; and

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

26 (3) Limitation. The amount of any modification

1 otherwise required under this subsection shall, under
2 regulations prescribed by the Department, be adjusted by
3 any amounts included therein which were properly paid,
4 credited, or required to be distributed, or permanently set
5 aside for charitable purposes pursuant to Internal Revenue
6 Code Section 642(c) during the taxable year.

7 (d) Partnerships.

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

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

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

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

21 (C) The amount of deductions allowed to the
22 partnership pursuant to Section 707 (c) of the Internal
23 Revenue Code in calculating its taxable income;
24 provided that no addition shall be required under this
25 subparagraph (C) for taxable years ending on or after

1 December 31, 2009, for deductions allowed for
2 guaranteed payments to an individual partner for
3 personal services by that partner;

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

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

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

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

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

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

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

5 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

16 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

5 (D-10) An amount equal to the credit allowable to
6 the taxpayer under Section 218(a) of this Act,
7 determined without regard to Section 218(c) of this
8 Act;~~;~~

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

11 (E) The valuation limitation amount;

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

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

25 (H) For taxable years ending before December 31,
26 2009, income of the partnership which constitutes

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

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

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

1 Internal Revenue Code; the provisions of this
2 subparagraph are exempt from the provisions of Section
3 250;

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

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

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

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

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

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

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

23 (3) for taxable years ending after December
24 31, 2005:

25 (i) for property on which a bonus
26 depreciation deduction of 30% of the adjusted

1 basis was taken, "x" equals "y" multiplied by
2 30 and then divided by 70 (or "y" multiplied by
3 0.429); and

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

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

16 (P) If the taxpayer sells, transfers, abandons, or
17 otherwise disposes of property for which the taxpayer
18 was required in any taxable year to make an addition
19 modification under subparagraph (D-5), then an amount
20 equal to that addition modification.

21 If the taxpayer continues to own property through
22 the last day of the last tax year for which the
23 taxpayer may claim a depreciation deduction for
24 federal income tax purposes and for which the taxpayer
25 was required in any taxable year to make an addition
26 modification under subparagraph (D-5), then an amount

1 equal to that addition modification.

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

5 This subparagraph (P) is exempt from the
6 provisions of Section 250;

7 (Q) 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 such 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 such
22 addition modification. This subparagraph (Q) is exempt
23 from Section 250;

24 (R) 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(d)(2)(D-7) for interest
15 paid, accrued, or incurred, directly or indirectly, to
16 the same person. This subparagraph (R) is exempt from
17 Section 250; and

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

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

13 (1) In general. Subject to the provisions of paragraph
14 (2) and subsection (b) (3), for purposes of this Section
15 and Section 803(e), a taxpayer's gross income, adjusted
16 gross income, or taxable income for the taxable year shall
17 mean the amount of gross income, adjusted gross income or
18 taxable income properly reportable for federal income tax
19 purposes for the taxable year under the provisions of the
20 Internal Revenue Code. Taxable income may be less than
21 zero. However, for taxable years ending on or after
22 December 31, 1986, net operating loss carryforwards from
23 taxable years ending prior to December 31, 1986, may not
24 exceed the sum of federal taxable income for the taxable
25 year before net operating loss deduction, plus the excess

1 of addition modifications over subtraction modifications
2 for the taxable year. For taxable years ending prior to
3 December 31, 1986, taxable income may never be an amount in
4 excess of the net operating loss for the taxable year as
5 defined in subsections (c) and (d) of Section 172 of the
6 Internal Revenue Code, provided that when taxable income of
7 a corporation (other than a Subchapter S corporation),
8 trust, or estate is less than zero and addition
9 modifications, other than those provided by subparagraph
10 (E) of paragraph (2) of subsection (b) for corporations or
11 subparagraph (E) of paragraph (2) of subsection (c) for
12 trusts and estates, exceed subtraction modifications, an
13 addition modification must be made under those
14 subparagraphs for any other taxable year to which the
15 taxable income less than zero (net operating loss) is
16 applied under Section 172 of the Internal Revenue Code or
17 under subparagraph (E) of paragraph (2) of this subsection
18 (e) applied in conjunction with Section 172 of the Internal
19 Revenue Code.

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

23 (A) Certain life insurance companies. In the case
24 of a life insurance company subject to the tax imposed
25 by Section 801 of the Internal Revenue Code, life
26 insurance company taxable income, plus the amount of

1 distribution from pre-1984 policyholder surplus
2 accounts as calculated under Section 815a of the
3 Internal Revenue Code;

4 (B) Certain other insurance companies. In the case
5 of mutual insurance companies subject to the tax
6 imposed by Section 831 of the Internal Revenue Code,
7 insurance company taxable income;

8 (C) Regulated investment companies. In the case of
9 a regulated investment company subject to the tax
10 imposed by Section 852 of the Internal Revenue Code,
11 investment company taxable income;

12 (D) Real estate investment trusts. In the case of a
13 real estate investment trust subject to the tax imposed
14 by Section 857 of the Internal Revenue Code, real
15 estate investment trust taxable income;

16 (E) Consolidated corporations. In the case of a
17 corporation which is a member of an affiliated group of
18 corporations filing a consolidated income tax return
19 for the taxable year for federal income tax purposes,
20 taxable income determined as if such corporation had
21 filed a separate return for federal income tax purposes
22 for the taxable year and each preceding taxable year
23 for which it was a member of an affiliated group. For
24 purposes of this subparagraph, the taxpayer's separate
25 taxable income shall be determined as if the election
26 provided by Section 243(b) (2) of the Internal Revenue

1 Code had been in effect for all such years;

2 (F) Cooperatives. In the case of a cooperative
3 corporation or association, the taxable income of such
4 organization determined in accordance with the
5 provisions of Section 1381 through 1388 of the Internal
6 Revenue Code;

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

23 (H) Partnerships. In the case of a partnership,
24 taxable income determined in accordance with Section
25 703 of the Internal Revenue Code, except that taxable
26 income shall take into account those items which are

1 required by Section 703(a)(1) to be separately stated
2 but which would be taken into account by an individual
3 in calculating his taxable income.

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

21 (f) Valuation limitation amount.

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

25 (A) The sum of the pre-August 1, 1969 appreciation

1 amounts (to the extent consisting of gain reportable
2 under the provisions of Section 1245 or 1250 of the
3 Internal Revenue Code) for all property in respect of
4 which such gain was reported for the taxable year; plus

5 (B) The lesser of (i) the sum of the pre-August 1,
6 1969 appreciation amounts (to the extent consisting of
7 capital gain) for all property in respect of which such
8 gain was reported for federal income tax purposes for
9 the taxable year, or (ii) the net capital gain for the
10 taxable year, reduced in either case by any amount of
11 such gain included in the amount determined under
12 subsection (a) (2) (F) or (c) (2) (H).

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

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

25 (B) If the fair market value of property referred
26 to in paragraph (1) was not readily ascertainable on

1 August 1, 1969, the pre-August 1, 1969 appreciation
2 amount for such property is that amount which bears the
3 same ratio to the total gain reported in respect of the
4 property for federal income tax purposes for the
5 taxable year, as the number of full calendar months in
6 that part of the taxpayer's holding period for the
7 property ending July 31, 1969 bears to the number of
8 full calendar months in the taxpayer's entire holding
9 period for the property.

10 (C) The Department shall prescribe such
11 regulations as may be necessary to carry out the
12 purposes of this paragraph.

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

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

1 (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,
2 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
3 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09;
4 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff.
5 8-14-09; revised 9-25-09.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.