



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4645**

Introduced 2/1/2012, by Rep. Darlene J. Senger

#### SYNOPSIS AS INTRODUCED:

15 ILCS 505/17.10 new  
35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the State Treasurer Act. Authorizes the State Treasurer to establish and administer a Home Savings Pool to supplement and enhance investment opportunities otherwise available to first-time homebuyers. Provides that participants in the Pool are required to use moneys distributed from the Pool for qualified expenditures incident to the purchase of a primary residence by a first-time homebuyer. Contains penalty provisions. Sets forth the duties of the State Treasurer with respect to the Home Savings Pool. Amends the Illinois Income Tax Act. Creates a deduction for individual taxpayers equal to the amount contributed by the taxpayer to a Home Savings Pool account during the taxable year, but not to exceed \$20,000 per taxable year. Effective immediately.

LRB097 17253 HLH 62454 b

FISCAL NOTE ACT  
MAY APPLY

HOUSING  
AFFORDABILITY  
IMPACT NOTE ACT  
MAY APPLY

1 AN ACT concerning State government.

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

4 Section 5. The State Treasurer Act is amended by adding  
5 Section 17.10 as follows:

6 (15 ILCS 505/17.10 new)

7 Sec. 17.10. Home Savings Pool. The State Treasurer may  
8 establish and administer a Home Savings Pool to supplement and  
9 enhance the investment opportunities otherwise available to  
10 first-time homebuyers. The State Treasurer, in administering  
11 the Home Savings Pool, may receive moneys paid into the pool by  
12 a participant and may serve as the fiscal agent of that  
13 participant for the purpose of holding and investing those  
14 moneys.

15 "Participant", as used in this Section, means any person  
16 who has authority to withdraw funds, change the designated  
17 beneficiary, or otherwise exercise control over an account.

18 "Donor", as used in this Section, means any person who makes  
19 investments in the pool. "Designated beneficiary", as used in  
20 this Section, means any person who is a first-time homebuyer  
21 and on whose behalf an account is established in the Home  
22 Savings Pool. For the purposes of this Section, "first-time  
23 homebuyer" means an individual who has not held an ownership

1 interest in residential property. Both in-state and  
2 out-of-state persons may be participants, donors, and  
3 designated beneficiaries in the Home Savings Pool.

4 New accounts in the Home Savings Pool may be processed  
5 through participating financial institutions. "Participating  
6 financial institution", as used in this Section, means any  
7 financial institution insured by the Federal Deposit Insurance  
8 Corporation and lawfully doing business in the State of  
9 Illinois and any credit union approved by the State Treasurer  
10 and lawfully doing business in the State of Illinois that  
11 agrees to process new accounts in the Home Savings Pool.  
12 Participating financial institutions may charge a processing  
13 fee to participants to open an account in the pool. That  
14 processing fee shall not exceed \$30 in the first calendar year  
15 during which a Home Savings Pool is established and shall be  
16 adjusted in each subsequent calendar year by the Treasurer  
17 based on the Consumer Price Index for the North Central Region  
18 as published by the United States Department of Labor, Bureau  
19 of Labor Statistics, for the immediately preceding calendar  
20 year. All communications from the State Treasurer to  
21 participants and donors shall reference the participating  
22 financial institution at which the account was processed.

23 The Treasurer may invest the moneys in the Home Savings  
24 Pool in the same manner and in the same types of investments  
25 provided for the investment of moneys by the Illinois State  
26 Board of Investment. To enhance the safety and liquidity of the

1 Home Savings Pool, to ensure the diversification of the  
2 investment portfolio of the pool, and in an effort to keep  
3 investment dollars in the State of Illinois, the State  
4 Treasurer may make a percentage of each account available for  
5 investment in participating financial institutions doing  
6 business in the State. The Treasurer shall develop, publish,  
7 and implement an investment policy covering the investment of  
8 the moneys in the Home Savings Pool. The policy shall be  
9 published (i) at least once each year in at least one newspaper  
10 of general circulation in both Springfield and Chicago and (ii)  
11 each year as part of the audit of the Home Savings Pool by the  
12 Auditor General, which shall be distributed to all  
13 participants. The Treasurer shall notify all participants in  
14 writing, and the Treasurer shall publish in a newspaper of  
15 general circulation in both Chicago and Springfield, any  
16 changes to the previously published investment policy at least  
17 30 calendar days before implementing the policy. Any investment  
18 policy adopted by the Treasurer shall be reviewed and updated  
19 if necessary within 90 days following the date that the State  
20 Treasurer takes office.

21 Participants shall be required to use moneys distributed  
22 from the Home Savings Pool for expenditures incident to the  
23 purchase of a primary residence by a designated beneficiary,  
24 including, but not limited to, a down payment and closing  
25 costs. Distributions made from the pool for these purposes may  
26 be made directly to a qualified Illinois-registered home

1 lender. The term "qualified Illinois-registered home lender",  
2 as used in this Section, includes (i) banks regulated under the  
3 Illinois Banking Act, (ii) savings and loans regulated under  
4 the Illinois Savings and Loan Act of 1985, (iii) savings banks  
5 regulated under the Savings Bank Act, (iv) credit unions  
6 regulated under the Illinois Credit Union Act, and (v) mortgage  
7 lenders regulated under the Residential Mortgage License Act of  
8 1987. Any moneys distributed from a Home Savings Pool account  
9 that are not used for these purposes shall be subject to a  
10 penalty of 10% of the earnings unless the beneficiary dies or  
11 becomes disabled or unless the beneficiary is 65 years of age  
12 or older and has not previously received a distribution from a  
13 Home Savings Pool account. Penalties shall be withheld at the  
14 time the distribution is made. Participants must submit an  
15 affidavit at the time of application verifying that the  
16 beneficiary of the Home Savings Pool account is a first-time  
17 homebuyer. Submitting a fraudulent affidavit under this  
18 Section is perjury, as defined in Section 32-2 of the Criminal  
19 Code of 1961.

20 The assets of the Home Savings Pool and its income and  
21 operation shall be exempt from all taxation by the State of  
22 Illinois and any of its subdivisions. The accrued earnings on  
23 investments in the Pool once disbursed on behalf of a  
24 designated beneficiary shall be similarly exempt from all  
25 taxation by the State of Illinois and its subdivisions, so long  
26 as they are used for qualified expenses set forth in this

1 Section. Contributions to a Home Savings Pool account during  
2 the taxable year may be deducted from adjusted gross income as  
3 provided in Section 203 of the Illinois Income Tax Act. The  
4 provisions of this paragraph are exempt from Section 250 of the  
5 Illinois Income Tax Act.

6 The Treasurer shall adopt rules he or she considers  
7 necessary for the efficient administration of the Home Savings  
8 Pool. The rules shall provide for the administration expenses  
9 of the pool to be paid from its earnings and for the investment  
10 earnings in excess of the expenses and all moneys collected as  
11 penalties to be credited or paid monthly to the several  
12 participants in the pool in a manner which equitably reflects  
13 the differing amounts of their respective investments in the  
14 pool and the differing periods of time for which those amounts  
15 were in the custody of the pool. Also, the rules shall require  
16 the maintenance of records that enable the Treasurer's office  
17 to produce a report for each account in the pool at least  
18 annually that documents the account balance and investment  
19 earnings. Notice of any proposed amendments to the rules and  
20 regulations shall be provided to all participants prior to  
21 adoption. Amendments to rules and regulations shall apply only  
22 to contributions made after the adoption of the amendment.

23 Upon creating the Home Savings Pool, the State Treasurer  
24 shall give bond with 2 or more sufficient sureties, payable to  
25 and for the benefit of the participants in the Home Savings  
26 Pool, in the penal sum of \$1,000,000, conditioned upon the

1 faithful discharge of his or her duties in relation to the Home  
2 Savings Pool.

3 Section 10. The Illinois Income Tax Act is amended by  
4 changing Section 203 as follows:

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

6 Sec. 203. Base income defined.

7 (a) Individuals.

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

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

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

22 (B) An amount equal to the amount of tax imposed by  
23 this Act to the extent deducted from gross income in  
24 the computation of adjusted gross income for the

1 taxable year;

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

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

18 (D-5) An amount, to the extent not included in  
19 adjusted gross income, equal to the amount of money  
20 withdrawn by the taxpayer in the taxable year from a  
21 medical care savings account and the interest earned on  
22 the account in the taxable year of a withdrawal  
23 pursuant to subsection (b) of Section 20 of the Medical  
24 Care Savings Account Act or subsection (b) of Section  
25 20 of the Medical Care Savings Account Act of 2000;

26 (D-10) For taxable years ending after December 31,



1 1997, an amount equal to any eligible remediation costs  
2 that the individual deducted in computing adjusted  
3 gross income and for which the individual claims a  
4 credit under subsection (l) of Section 201;

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

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

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

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

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

12 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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



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

1 of in-state qualified tuition programs at least  
2 annually, an amount equal to the amount excluded from  
3 gross income under Section 529(c) (3) (B) .

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

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

23 (D-22) For taxable years beginning on or after  
24 January 1, 2009, in the case of a nonqualified  
25 withdrawal or refund of moneys from a qualified tuition  
26 program under Section 529 of the Internal Revenue Code

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

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

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

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

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

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

1 partners, which payments are excluded in computing net  
2 earnings from self employment by Section 1402 of the  
3 Internal Revenue Code and regulations adopted pursuant  
4 thereto;

5 (G) The valuation limitation amount;

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

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

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

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

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

12 (M) With the exception of any amounts subtracted  
13 under subparagraph (N), an amount equal to the sum of  
14 all amounts disallowed as deductions by (i) Sections  
15 171(a) (2), and 265(2) of the Internal Revenue Code,  
16 and all amounts of expenses allocable to interest and  
17 disallowed as deductions by Section 265(1) of the  
18 Internal Revenue Code; and (ii) for taxable years  
19 ending on or after August 13, 1999, Sections 171(a) (2),  
20 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue  
21 Code, plus, for taxable years ending on or after  
22 December 31, 2011, Section 45G(e) (3) of the Internal  
23 Revenue Code and, for taxable years ending on or after  
24 December 31, 2008, any amount included in gross income  
25 under Section 87 of the Internal Revenue Code; the  
26 provisions of this subparagraph are exempt from the

1 provisions of Section 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 or of any itemized deduction  
19 taken from adjusted gross income in the computation of  
20 taxable income for restoration of substantial amounts  
21 held under claim of right for the taxable year;

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

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

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

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

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

24           (V) Beginning with tax years ending on or after  
25 December 31, 1995 and ending with tax years ending on  
26 or before December 31, 2004, an amount equal to the



1 amount paid by a taxpayer who is a self-employed  
2 taxpayer, a partner of a partnership, or a shareholder  
3 in a Subchapter S corporation for health insurance or  
4 long-term care insurance for that taxpayer or that  
5 taxpayer's spouse or dependents, to the extent that the  
6 amount paid for that health insurance or long-term care  
7 insurance may be deducted under Section 213 of the  
8 Internal Revenue Code, has not been deducted on the  
9 federal income tax return of the taxpayer, and does not  
10 exceed the taxable income attributable to that  
11 taxpayer's income, self-employment income, or  
12 Subchapter S corporation income; except that no  
13 deduction shall be allowed under this item (V) if the  
14 taxpayer is eligible to participate in any health  
15 insurance or long-term care insurance plan of an  
16 employer of the taxpayer or the taxpayer's spouse. The  
17 amount of the health insurance and long-term care  
18 insurance subtracted under this item (V) shall be  
19 determined by multiplying total health insurance and  
20 long-term care insurance premiums paid by the taxpayer  
21 times a number that represents the fractional  
22 percentage of eligible medical expenses under Section  
23 213 of the Internal Revenue Code of 1986 not actually  
24 deducted on the taxpayer's federal income tax return;

25 (W) For taxable years beginning on or after January  
26 1, 1998, all amounts included in the taxpayer's federal

1 gross income in the taxable year from amounts converted  
2 from a regular IRA to a Roth IRA. This paragraph is  
3 exempt from the provisions of Section 250;

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

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

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

1 of this subparagraph, contributions made by an  
2 employer on behalf of an employee, or matching  
3 contributions made by an employee, shall be treated as  
4 made by the employee. This subparagraph (Y) is exempt  
5 from the provisions of Section 250;

6 (Z) 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 (Z) is exempt from the provisions of  
15 Section 250;

16 (AA) If the taxpayer sells, transfers, abandons,  
17 or otherwise disposes of property for which the  
18 taxpayer was required in any taxable year to make an  
19 addition modification under subparagraph (D-15), then  
20 an amount 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-15), 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 (AA) is exempt from the  
6 provisions of Section 250;

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

10 (CC) 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 that addition modification, and (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 that  
25 addition modification. This subparagraph (CC) is  
26 exempt from the provisions of Section 250;

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

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

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

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

22 (GG) For taxable years ending on or after December  
23 31, 2011, in the case of a taxpayer who was required to  
24 add back any insurance premiums under Section  
25 203(a)(2)(D-19), such taxpayer may elect to subtract  
26 that part of a reimbursement received from the



1 insurance company equal to the amount of the expense or  
2 loss (including expenses incurred by the insurance  
3 company) that would have been taken into account as a  
4 deduction for federal income tax purposes if the  
5 expense or loss had been uninsured. If a taxpayer makes  
6 the election provided for by this subparagraph (GG),  
7 the insurer to which the premiums were paid must add  
8 back to income the amount subtracted by the taxpayer  
9 pursuant to this subparagraph (GG). This subparagraph  
10 (GG) is exempt from the provisions of Section 250; and

11 -

12 (HH) For taxable years beginning on or after  
13 January 1, 2012, an amount equal to the amount  
14 contributed by the taxpayer during the taxable year to  
15 a Home Savings Pool account under Section 17.10 of the  
16 State Treasurer Act, but not to exceed \$20,000 per  
17 taxable year. This subparagraph (HH) is exempt from the  
18 provisions of 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, and all amounts of expenses allocable to  
4 interest and disallowed as deductions by Section  
5 265(a)(1) of the Internal Revenue Code; and (ii) for  
6 taxable years ending on or after August 13, 1999,  
7 Sections 171(a)(2), 265, 280C, 291(a)(3), and  
8 832(b)(5)(B)(i) of the Internal Revenue Code, plus,  
9 for tax years ending on or after December 31, 2011,  
10 amounts disallowed as deductions by Section 45G(e)(3)  
11 of the Internal Revenue Code and, for taxable years  
12 ending on or after December 31, 2008, any amount  
13 included in gross income under Section 87 of the  
14 Internal Revenue Code and the policyholders' share of  
15 tax-exempt interest of a life insurance company under  
16 Section 807(a)(2)(B) of the Internal Revenue Code (in  
17 the case of a life insurance company with gross income  
18 from a decrease in reserves for the tax year) or  
19 Section 807(b)(1)(B) of the Internal Revenue Code (in  
20 the case of a life insurance company allowed a  
21 deduction for an increase in reserves for the tax  
22 year); the provisions of this subparagraph are exempt  
23 from the provisions of Section 250;

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

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

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

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

26 (M) For any taxpayer that is a financial

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

24 (M-1) For any taxpayer that is a financial  
25 organization within the meaning of Section 304(c) of  
26 this Act, an amount included in such total as interest

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

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



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

8 (O) An amount equal to: (i) 85% for taxable years  
9 ending on or before December 31, 1992, or, a percentage  
10 equal to the percentage allowable under Section  
11 243(a)(1) of the Internal Revenue Code of 1986 for  
12 taxable years ending after December 31, 1992, of the  
13 amount by which dividends included in taxable income  
14 and received from a corporation that is not created or  
15 organized under the laws of the United States or any  
16 state or political subdivision thereof, including, for  
17 taxable years ending on or after December 31, 1988,  
18 dividends received or deemed received or paid or deemed  
19 paid under Sections 951 through 965 of the Internal  
20 Revenue Code, exceed the amount of the modification  
21 provided under subparagraph (G) of paragraph (2) of  
22 this subsection (b) which is related to such dividends,  
23 and including, for taxable years ending on or after  
24 December 31, 2008, dividends received from a captive  
25 real estate investment trust; plus (ii) 100% of the  
26 amount by which dividends, included in taxable income

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (Y) For taxable years ending on or after December  
11 31, 2011, in the case of a taxpayer who was required to  
12 add back any insurance premiums under Section  
13 203(b)(2)(E-14), such taxpayer may elect to subtract  
14 that part of a reimbursement received from the  
15 insurance company equal to the amount of the expense or  
16 loss (including expenses incurred by the insurance  
17 company) that would have been taken into account as a  
18 deduction for federal income tax purposes if the  
19 expense or loss had been uninsured. If a taxpayer makes  
20 the election provided for by this subparagraph (Y), the  
21 insurer to which the premiums were paid must add back  
22 to income the amount subtracted by the taxpayer  
23 pursuant to this subparagraph (Y). This subparagraph  
24 (Y) is exempt from the provisions of Section 250; and

25 (Z) The difference between the nondeductible  
26 controlled foreign corporation dividends under Section



1           965(e) (3) of the Internal Revenue Code over the taxable  
2           income of the taxpayer, computed without regard to  
3           Section 965(e) (2) (A) of the Internal Revenue Code, and  
4           without regard to any net operating loss deduction.  
5           This subparagraph (Z) is exempt from the provisions of  
6           Section 250.

7           (3) Special rule. For purposes of paragraph (2) (A),  
8           "gross income" in the case of a life insurance company, for  
9           tax years ending on and after December 31, 1994, and prior  
10          to December 31, 2011, shall mean the gross investment  
11          income for the taxable year and, for tax years ending on or  
12          after December 31, 2011, shall mean all amounts included in  
13          life insurance gross income under Section 803(a) (3) of the  
14          Internal Revenue Code.

15          (c) Trusts and estates.

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

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

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

1 in the computation of taxable income;

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

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

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

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

25 (i) the addition modification relating to the  
26 net operating loss carried back or forward to the

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

7 (ii) 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 not exceed the amount of  
11 such carryback or carryforward;

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

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

25 (G) An amount equal to the amount of the capital  
26 gain deduction allowable under the Internal Revenue

1 Code, to the extent deducted from gross income in the  
2 computation of taxable income;

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

8 (G-10) 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; and

13 (G-11) 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 (G-10), then  
17 an amount equal to the aggregate amount of the  
18 deductions taken in all taxable years under  
19 subparagraph (R) 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 (R), 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           (G-12) 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 that the foreign person's business activity  
11 outside 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;

23           (G-13) 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(c)(2)(G-12) of  
2 this Act. As used in this subparagraph, the term  
3 "intangible expenses and costs" includes: (1)  
4 expenses, losses, and costs for or related to the  
5 direct or indirect acquisition, use, maintenance or  
6 management, ownership, sale, exchange, or any other  
7 disposition of intangible property; (2) losses  
8 incurred, directly or indirectly, from factoring  
9 transactions or discounting transactions; (3) royalty,  
10 patent, technical, and copyright fees; (4) licensing  
11 fees; and (5) other similar expenses and costs. For  
12 purposes of this subparagraph, "intangible property"  
13 includes patents, patent applications, trade names,  
14 trademarks, service marks, copyrights, mask works,  
15 trade secrets, and 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           (G-14) For taxable years ending on or after  
6           December 31, 2008, an amount equal to the amount of  
7           insurance premium expenses and costs otherwise allowed  
8           as a deduction in computing base income, and that were  
9           paid, accrued, or incurred, directly or indirectly, to  
10          a 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(c) (2) (G-12) or  
4 Section 203(c) (2) (G-13) of this Act;

5 (G-15) 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 sum of the  
10 following amounts:

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

22 (I) The valuation limitation amount;

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

26 (K) An amount equal to all amounts included in

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

11 (L) With the exception of any amounts subtracted  
12 under subparagraph (K), an amount equal to the sum of  
13 all amounts disallowed as deductions by (i) Sections  
14 171(a) (2) and 265(a) (2) of the Internal Revenue Code,  
15 and all amounts of expenses allocable to interest and  
16 disallowed as deductions by Section 265(1) of the  
17 Internal Revenue Code; and (ii) for taxable years  
18 ending on or after August 13, 1999, Sections 171(a) (2),  
19 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue  
20 Code, plus, (iii) for taxable years ending on or after  
21 December 31, 2011, Section 45G(e) (3) of the Internal  
22 Revenue Code and, for taxable years ending on or after  
23 December 31, 2008, any amount included in gross income  
24 under Section 87 of the Internal Revenue Code; the  
25 provisions of this subparagraph are exempt from the  
26 provisions of Section 250;

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

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

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

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

1 the Internal Revenue Code;

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

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

9 (R) 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 (R) is exempt from the provisions of  
18                  Section 250;

19                  (S) 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 (G-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 (G-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 (S) is exempt from the  
9 provisions of Section 250;

10 (T) 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 and (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. This subparagraph (T) is exempt  
26 from the provisions of Section 250;

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

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

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

16 (W) in the case of an estate, an amount equal to  
17 all amounts included in such total pursuant to the  
18 provisions of Section 111 of the Internal Revenue Code  
19 as a recovery of items previously deducted by the  
20 decedent from adjusted gross income in the computation  
21 of taxable income. This subparagraph (W) is exempt from  
22 Section 250;

23 (X) an amount equal to the refund included in such  
24 total of any tax deducted for federal income tax  
25 purposes, to the extent that deduction was added back  
26 under subparagraph (F). This subparagraph (X) is

1 exempt from the provisions of Section 250; and

2 (Y) For taxable years ending on or after December  
3 31, 2011, in the case of a taxpayer who was required to  
4 add back any insurance premiums under Section  
5 203(c)(2)(G-14), such taxpayer may elect to subtract  
6 that part of a reimbursement received from the  
7 insurance company equal to the amount of the expense or  
8 loss (including expenses incurred by the insurance  
9 company) that would have been taken into account as a  
10 deduction for federal income tax purposes if the  
11 expense or loss had been uninsured. If a taxpayer makes  
12 the election provided for by this subparagraph (Y), the  
13 insurer to which the premiums were paid must add back  
14 to income the amount subtracted by the taxpayer  
15 pursuant to this subparagraph (Y). This subparagraph  
16 (Y) is exempt from the provisions of Section 250.

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

24 (d) Partnerships.

25 (1) In general. In the case of a partnership, base

1 income means an amount equal to the taxpayer's taxable  
2 income for the taxable year as modified by paragraph (2).

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

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

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

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

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 taxable income;

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

25 (D-6) If the taxpayer sells, transfers, abandons,  
26 or otherwise disposes of property for which the

1 taxpayer was required in any taxable year to make an  
2 addition modification under subparagraph (D-5), then  
3 an amount equal to the aggregate amount of the  
4 deductions taken in all taxable years under  
5 subparagraph (O) with respect to that property.

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

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

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

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

17 This paragraph shall not apply to the following:

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

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



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

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

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

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

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

26 Nothing in this subsection shall preclude the

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

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

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

1 similar types of intangible assets;

2 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) any item of intangible expense or cost

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

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

17          (D-9) For taxable years ending on or after December  
18          31, 2008, an amount equal to the amount of insurance  
19          premium expenses and costs otherwise allowed as a  
20          deduction in computing base income, and that were paid,  
21          accrued, or incurred, directly or indirectly, to a  
22          person who would be a member of the same unitary  
23          business group but for the fact that the person is  
24          prohibited under Section 1501(a)(27) from being  
25          included in the unitary business group because he or  
26          she is ordinarily required to apportion business

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

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

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

23 (E) The valuation limitation amount;

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

1 (G) An amount equal to all amounts included in  
2 taxable income as modified by subparagraphs (A), (B),  
3 (C) and (D) which are exempt from taxation by this  
4 State either by reason of its statutes or Constitution  
5 or by reason of the Constitution, treaties or statutes  
6 of the 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 (H) Any income of the partnership which  
12 constitutes personal service income as defined in  
13 Section 1348 (b) (1) of the Internal Revenue Code (as  
14 in effect December 31, 1981) or a reasonable allowance  
15 for compensation paid or accrued for services rendered  
16 by partners to the partnership, whichever is greater;  
17 this subparagraph (H) is exempt from the provisions of  
18 Section 250;

19 (I) An amount equal to all amounts of income  
20 distributable to an entity subject to the Personal  
21 Property Tax Replacement Income Tax imposed by  
22 subsections (c) and (d) of Section 201 of this Act  
23 including amounts distributable to organizations  
24 exempt from federal income tax by reason of Section  
25 501(a) of the Internal Revenue Code; this subparagraph  
26 (I) is exempt from the provisions of Section 250;

1           (J) With the exception of any amounts subtracted  
2 under subparagraph (G), an amount equal to the sum of  
3 all amounts disallowed as deductions by (i) Sections  
4 171(a) (2), and 265(2) of the Internal Revenue Code,  
5 and all amounts of expenses allocable to interest and  
6 disallowed as deductions by Section 265(1) of the  
7 Internal Revenue Code; and (ii) for taxable years  
8 ending on or after August 13, 1999, Sections 171(a) (2),  
9 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue  
10 Code, plus, (iii) for taxable years ending on or after  
11 December 31, 2011, Section 45G(e) (3) of the Internal  
12 Revenue Code and, for taxable years ending on or after  
13 December 31, 2008, any amount included in gross income  
14 under Section 87 of the Internal Revenue Code; the  
15 provisions of this subparagraph are exempt from the  
16 provisions of Section 250;

17           (K) 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,  
21 enacted by the 82nd General Assembly, or a River Edge  
22 Redevelopment Zone or zones created under the River  
23 Edge Redevelopment Zone Act and conducts substantially  
24 all of its operations in an Enterprise Zone or Zones or  
25 from a River Edge Redevelopment Zone or zones. This  
26 subparagraph (K) is exempt from the provisions of



1 Section 250;

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

5 (M) 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 (M);

14 (N) 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;

19 (O) 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 (O) is exempt from the provisions of  
2           Section 250;

3           (P) 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 (D-5), 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 (D-5), 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 (P) is exempt from the  
19          provisions of Section 250;

20          (Q) 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 (Q) is exempt  
10 from Section 250;

11 (R) 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 that the foreign person's business activity  
17 outside the United States is 80% or more of that  
18 person's total business activity and (ii) for taxable  
19 years ending on or after December 31, 2008, to a person  
20 who would be a member of the same unitary business  
21 group but for the fact that the person is prohibited  
22 under Section 1501(a)(27) from being included in the  
23 unitary business group because he or she is ordinarily  
24 required to apportion business income under different  
25 subsections of Section 304, but not to exceed the  
26 addition modification required to be made for the same

1 taxable year under Section 203(d)(2)(D-7) for interest  
2 paid, accrued, or incurred, directly or indirectly, to  
3 the same person. This subparagraph (R) is exempt from  
4 Section 250;

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

25 (T) For taxable years ending on or after December  
26 31, 2011, in the case of a taxpayer who was required to

1           add back any insurance premiums under Section  
2           203(d)(2)(D-9), such taxpayer may elect to subtract  
3           that part of a reimbursement received from the  
4           insurance company equal to the amount of the expense or  
5           loss (including expenses incurred by the insurance  
6           company) that would have been taken into account as a  
7           deduction for federal income tax purposes if the  
8           expense or loss had been uninsured. If a taxpayer makes  
9           the election provided for by this subparagraph (T), the  
10          insurer to which the premiums were paid must add back  
11          to income the amount subtracted by the taxpayer  
12          pursuant to this subparagraph (T). This subparagraph  
13          (T) is exempt from the provisions of Section 250.

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

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

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

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

25 (A) Certain life insurance companies. In the case  
26 of a life insurance company subject to the tax imposed

1 by Section 801 of the Internal Revenue Code, life  
2 insurance company taxable income, plus the amount of  
3 distribution from pre-1984 policyholder surplus  
4 accounts as calculated under Section 815a of the  
5 Internal Revenue Code;

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

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

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

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



1 taxable income shall be determined as if the election  
2 provided by Section 243(b) (2) of the Internal Revenue  
3 Code had been in effect for all such years;

4 (F) Cooperatives. In the case of a cooperative  
5 corporation or association, the taxable income of such  
6 organization determined in accordance with the  
7 provisions of Section 1381 through 1388 of the Internal  
8 Revenue Code, but without regard to the prohibition  
9 against offsetting losses from patronage activities  
10 against income from nonpatronage activities; except  
11 that a cooperative corporation or association may make  
12 an election to follow its federal income tax treatment  
13 of patronage losses and nonpatronage losses. In the  
14 event such election is made, such losses shall be  
15 computed and carried over in a manner consistent with  
16 subsection (a) of Section 207 of this Act and  
17 apportioned by the apportionment factor reported by  
18 the cooperative on its Illinois income tax return filed  
19 for the taxable year in which the losses are incurred.  
20 The election shall be effective for all taxable years  
21 with original returns due on or after the date of the  
22 election. In addition, the cooperative may file an  
23 amended return or returns, as allowed under this Act,  
24 to provide that the election shall be effective for  
25 losses incurred or carried forward for taxable years  
26 occurring prior to the date of the election. Once made,

1 the election may only be revoked upon approval of the  
2 Director. The Department shall adopt rules setting  
3 forth requirements for documenting the elections and  
4 any resulting Illinois net loss and the standards to be  
5 used by the Director in evaluating requests to revoke  
6 elections. Public Act 96-932 is declaratory of  
7 existing law;

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

24 (H) Partnerships. In the case of a partnership,  
25 taxable income determined in accordance with Section  
26 703 of the Internal Revenue Code, except that taxable

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

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

22 (f) Valuation limitation amount.

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

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

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

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

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

26           (B) If the fair market value of property referred

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

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

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

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

1 August 1, 1969 or otherwise.

2 (Source: P.A. 96-45, eff. 7-15-09; 96-120, eff. 8-4-09; 96-198,  
3 eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff. 8-14-09;  
4 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935, eff.  
5 6-21-10; 96-1214, eff. 7-22-10; 97-333, eff. 8-12-11; 97-507,  
6 eff. 8-23-11.)

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