



Rep. Kenneth Dunkin

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1 AMENDMENT TO HOUSE BILL 1749

2 AMENDMENT NO. _____. Amend House Bill 1749 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 203 and 1501 as follows:

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

1 the computation of adjusted gross income for the
2 taxable year;

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

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

19 (D-5) An amount, to the extent not included in
20 adjusted gross income, equal to the amount of money
21 withdrawn by the taxpayer in the taxable year from a
22 medical care savings account and the interest earned on
23 the account in the taxable year of a withdrawal
24 pursuant to subsection (b) of Section 20 of the Medical
25 Care Savings Account Act or subsection (b) of Section
26 20 of the Medical Care Savings Account Act of 2000;

27 (D-10) For taxable years ending after December 31,
28 1997, an amount equal to any eligible remediation costs
29 that the individual deducted in computing adjusted
30 gross income and for which the individual claims a
31 credit under subsection (1) of Section 201;

32 (D-15) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction (30%
34 of the adjusted basis of the qualified property) taken

1 on the taxpayer's federal income tax return for the
2 taxable year under subsection (k) of Section 168 of the
3 Internal Revenue Code. This subparagraph (D-15) does
4 not apply to any sport utility vehicle for which an
5 amount is added back under subparagraph (D-25);

6 (D-16) If the taxpayer reports a capital gain or
7 loss on the taxpayer's federal income tax return for
8 the taxable year based on a sale or transfer of
9 property for which the taxpayer was required in any
10 taxable year to make an addition modification under
11 subparagraph (D-15), then an amount equal to the
12 aggregate amount of the deductions taken in all taxable
13 years under subparagraph (Z) with respect to that
14 property.

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

18 (D-17) For taxable years ending on or after
19 December 31, 2004, an amount equal to the amount
20 otherwise allowed as a deduction in computing base
21 income for interest paid, accrued, or incurred,
22 directly or indirectly, to a foreign person who would
23 be a member of the same unitary business group but for
24 the fact that foreign person's business activity
25 outside the United States is 80% or more of the foreign
26 person's total business activity. The addition
27 modification required by this subparagraph shall be
28 reduced to the extent that dividends were included in
29 base income of the unitary group for the same taxable
30 year and received by the taxpayer or by a member of the
31 taxpayer's unitary business group (including amounts
32 included in gross income under Sections 951 through 964
33 of the Internal Revenue Code and amounts included in
34 gross income under Section 78 of the Internal Revenue

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

3 This paragraph shall not apply to the following:

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

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

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

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

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

32 (iv) an item of interest paid, accrued, or
33 incurred, directly or indirectly, to a foreign
34 person if the taxpayer establishes by clear and

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

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

15 (D-18) For taxable years ending on or after
16 December 31, 2004, an amount equal to the amount of
17 intangible expenses and costs otherwise allowed as a
18 deduction in computing base income, and that were paid,
19 accrued, or incurred, directly or indirectly, to a
20 foreign person who would be a member of the same
21 unitary business group but for the fact that the
22 foreign person's business activity outside the United
23 States is 80% or more of that person's total business
24 activity. The addition modification required by this
25 subparagraph shall be reduced to the extent that
26 dividends were included in base income of the unitary
27 group for the same taxable year and received by the
28 taxpayer or by a member of the taxpayer's unitary
29 business group (including amounts included in gross
30 income under Sections 951 through 964 of the Internal
31 Revenue Code and amounts included in gross income under
32 Section 78 of the Internal Revenue Code) with respect
33 to the stock of the same person to whom the intangible
34 expenses and costs were directly or indirectly paid,

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

19 This paragraph shall not apply to the following:

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

27 (ii) any item of intangible expense or cost
28 paid, accrued, or incurred, directly or
29 indirectly, if the taxpayer can establish, based
30 on a preponderance of the evidence, both of the
31 following:

32 (a) the foreign person during the same
33 taxable year paid, accrued, or incurred, the
34 intangible expense or cost to a person that is

1 not a related member, and

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

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

27 (D-20) For taxable years beginning on or after
28 January 1, 2002, in the case of a distribution from a
29 qualified tuition program under Section 529 of the
30 Internal Revenue Code, other than (i) a distribution
31 from a College Savings Pool created under Section 16.5
32 of the State Treasurer Act or (ii) a distribution from
33 the Illinois Prepaid Tuition Trust Fund, an amount
34 equal to the amount excluded from gross income under

1 Section 529(c)(3)(B);

2 (D-25) For taxable years ending on or after
3 December 31, 2005, an amount equal to the sum of: (i)
4 any deduction taken under Section 179 of the Internal
5 Revenue Code for a sport utility vehicle for the
6 taxable year; plus (ii) any deduction taken under
7 Section 167(a) of the Internal Revenue Code for
8 depreciation of a sport utility vehicle for the taxable
9 year;

10 (D-30) If the taxpayer reports a capital gain or
11 loss on the taxpayer's federal income tax return for
12 the taxable year based on a sale or transfer of a sport
13 utility vehicle for which the taxpayer was required in
14 any taxable year to make an addition modification under
15 subparagraph (D-25), then an amount equal to the
16 aggregate amount of the deductions taken in all taxable
17 years under subparagraph (FF) with respect to that
18 sport utility vehicle. The taxpayer is required to make
19 the addition modification under this subparagraph only
20 once with respect to any one sport utility vehicle;

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

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

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

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

27 (G) The valuation limitation amount;

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

31 (I) An amount equal to all amounts included in such
32 total pursuant to the provisions of Section 111 of the
33 Internal Revenue Code as a recovery of items previously
34 deducted from adjusted gross income in the computation

1 of taxable income;

2 (J) An amount equal to those dividends included in
3 such total which were paid by a corporation which
4 conducts business operations in an Enterprise Zone or
5 zones created under the Illinois Enterprise Zone Act,
6 and conducts substantially all of its operations in an
7 Enterprise Zone or zones;

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

17 (L) For taxable years ending after December 31,
18 1983, an amount equal to all social security benefits
19 and railroad retirement benefits included in such
20 total pursuant to Sections 72(r) and 86 of the Internal
21 Revenue Code;

22 (M) With the exception of any amounts subtracted
23 under subparagraph (N), an amount equal to the sum of
24 all amounts disallowed as deductions by (i) Sections
25 171(a) (2), and 265(2) of the Internal Revenue Code of
26 1954, as now or hereafter amended, and all amounts of
27 expenses allocable to interest and disallowed as
28 deductions by Section 265(1) of the Internal Revenue
29 Code of 1954, as now or hereafter amended; and (ii) for
30 taxable years ending on or after August 13, 1999,
31 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
32 the Internal Revenue Code; the provisions of this
33 subparagraph are exempt from the provisions of Section
34 250;

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

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

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

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

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

25 (S) An amount, to the extent included in adjusted
26 gross income, equal to the amount of a contribution
27 made in the taxable year on behalf of the taxpayer to a
28 medical care savings account established under the
29 Medical Care Savings Account Act or the Medical Care
30 Savings Account Act of 2000 to the extent the
31 contribution is accepted by the account administrator
32 as provided in that Act;

33 (T) An amount, to the extent included in adjusted
34 gross income, equal to the amount of interest earned in

1 the taxable year on a medical care savings account
2 established under the Medical Care Savings Account Act
3 or the Medical Care Savings Account Act of 2000 on
4 behalf of the taxpayer, other than interest added
5 pursuant to item (D-5) of this paragraph (2);

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

12 (V) Beginning with tax years ending on or after
13 December 31, 1995 and ending with tax years ending on
14 or before December 31, 2004, an amount equal to the
15 amount paid by a taxpayer who is a self-employed
16 taxpayer, a partner of a partnership, or a shareholder
17 in a Subchapter S corporation for health insurance or
18 long-term care insurance for that taxpayer or that
19 taxpayer's spouse or dependents, to the extent that the
20 amount paid for that health insurance or long-term care
21 insurance may be deducted under Section 213 of the
22 Internal Revenue Code of 1986, has not been deducted on
23 the federal income tax return of the taxpayer, and does
24 not exceed the taxable income attributable to that
25 taxpayer's income, self-employment income, or
26 Subchapter S corporation income; except that no
27 deduction shall be allowed under this item (V) if the
28 taxpayer is eligible to participate in any health
29 insurance or long-term care insurance plan of an
30 employer of the taxpayer or the taxpayer's spouse. The
31 amount of the health insurance and long-term care
32 insurance subtracted under this item (V) shall be
33 determined by multiplying total health insurance and
34 long-term care insurance premiums paid by the taxpayer

1 times a number that represents the fractional
2 percentage of eligible medical expenses under Section
3 213 of the Internal Revenue Code of 1986 not actually
4 deducted on the taxpayer's federal income tax return;

5 (W) For taxable years beginning on or after January
6 1, 1998, all amounts included in the taxpayer's federal
7 gross income in the taxable year from amounts converted
8 from a regular IRA to a Roth IRA. This paragraph is
9 exempt from the provisions of Section 250;

10 (X) For taxable year 1999 and thereafter, an amount
11 equal to the amount of any (i) distributions, to the
12 extent includible in gross income for federal income
13 tax purposes, made to the taxpayer because of his or
14 her status as a victim of persecution for racial or
15 religious reasons by Nazi Germany or any other Axis
16 regime or as an heir of the victim and (ii) items of
17 income, to the extent includible in gross income for
18 federal income tax purposes, attributable to, derived
19 from or in any way related to assets stolen from,
20 hidden from, or otherwise lost to a victim of
21 persecution for racial or religious reasons by Nazi
22 Germany or any other Axis regime immediately prior to,
23 during, and immediately after World War II, including,
24 but not limited to, interest on the proceeds receivable
25 as insurance under policies issued to a victim of
26 persecution for racial or religious reasons by Nazi
27 Germany or any other Axis regime by European insurance
28 companies immediately prior to and during World War II;
29 provided, however, this subtraction from federal
30 adjusted gross income does not apply to assets acquired
31 with such assets or with the proceeds from the sale of
32 such assets; provided, further, this paragraph shall
33 only apply to a taxpayer who was the first recipient of
34 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 (Y) For taxable years beginning on or after January
10 1, 2002 and ending on or before December 31, 2004,
11 moneys contributed in the taxable year to a College
12 Savings Pool account under Section 16.5 of the State
13 Treasurer Act, except that amounts excluded from gross
14 income under Section 529(c)(3)(C)(i) of the Internal
15 Revenue Code shall not be considered moneys
16 contributed under this subparagraph (Y). For taxable
17 years beginning on or after January 1, 2005, a maximum
18 of \$10,000 contributed in the taxable year to (i) a
19 College Savings Pool account under Section 16.5 of the
20 State Treasurer Act or (ii) the Illinois Prepaid
21 Tuition Trust Fund, except that amounts excluded from
22 gross income under Section 529(c)(3)(C)(i) of the
23 Internal Revenue Code shall not be considered moneys
24 contributed under this subparagraph (Y). This
25 subparagraph (Y) is exempt from the provisions of
26 Section 250;

27 (Z) For taxable years 2001 and thereafter, for the
28 taxable year in which the bonus depreciation deduction
29 (30% of the adjusted basis of the qualified property)
30 is taken on the taxpayer's federal income tax return
31 under subsection (k) of Section 168 of the Internal
32 Revenue Code and for each applicable taxable year
33 thereafter, an amount equal to "x", where:

34 (1) "y" equals the amount of the depreciation

1 deduction taken for the taxable year on the
2 taxpayer's federal income tax return on property
3 for which the bonus depreciation deduction (30% of
4 the adjusted basis of the qualified property) 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; and

8 (2) "x" equals "y" multiplied by 30 and then
9 divided by 70 (or "y" multiplied by 0.429).

10 The aggregate amount deducted under this
11 subparagraph in all taxable years for any one piece of
12 property may not exceed the amount of the bonus
13 depreciation deduction (30% of the adjusted basis of
14 the qualified property) 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;

17 (AA) If the taxpayer reports a capital gain or loss
18 on the taxpayer's federal income tax return for the
19 taxable year based on a sale or transfer of property
20 for which the taxpayer was required in any taxable year
21 to make an addition modification under subparagraph
22 (D-15), then an amount equal to that addition
23 modification.

24 The taxpayer is allowed to take the deduction under
25 this subparagraph only once with respect to any one
26 piece of property;

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

30 (CC) The amount of (i) any interest income (net of
31 the deductions allocable thereto) taken into account
32 for the taxable year with respect to a transaction with
33 a taxpayer that is required to make an addition
34 modification with respect to such transaction under

1 Section 203(a)(2)(D-17), 203(b)(2) (E-12) ~~(E-13)~~,
2 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
3 the amount of that addition modification, and (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) ~~(E-14)~~,
10 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed
11 the amount of that addition modification;

12 (DD) An amount equal to the interest income taken
13 into account for the taxable year (net of the
14 deductions allocable thereto) with respect to
15 transactions with a foreign person who would be a
16 member of the taxpayer's unitary business group but for
17 the fact that the foreign person's business activity
18 outside the United States is 80% or more of that
19 person's total business activity, but not to exceed the
20 addition modification required to be made for the same
21 taxable year under Section 203(a)(2)(D-17) for
22 interest paid, accrued, or incurred, directly or
23 indirectly, to the same foreign person; ~~and~~

24 (EE) An amount equal to the income from intangible
25 property taken into account for the taxable year (net
26 of the deductions allocable thereto) with respect to
27 transactions with a foreign person who would be a
28 member of the taxpayer's unitary business group but for
29 the fact that the foreign person's business activity
30 outside the United States is 80% or more of that
31 person's total business activity, but not to exceed the
32 addition modification required to be made for the same
33 taxable year under Section 203(a)(2)(D-18) for
34 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same foreign
2 person;~~:-~~

3 (FF) For a taxable year in which an amount is added
4 back under paragraph (D-25) with respect to a sport
5 utility vehicle and for each subsequent taxable year,
6 an amount equal to the deduction, if any, to which the
7 taxpayer would have been entitled under Section 179 or
8 Section 167(a) of the Internal Revenue Code with
9 respect to that sport utility vehicle if that sport
10 utility vehicle were a "passenger automobile" within
11 the meaning of Section 280F(d)(5) of the Internal
12 Revenue Code. This subparagraph (FF) is exempt from the
13 provisions of Section 250; and

14 (GG) If the taxpayer reports a capital gain or loss
15 on the taxpayer's federal income tax return for the
16 taxable year based on a sale or transfer of a sport
17 utility vehicle for which the taxpayer was required in
18 any taxable year to make an addition modification under
19 subparagraph (D-25), then an amount equal to that
20 addition modification. The taxpayer is allowed to take
21 the deduction under this subparagraph only once with
22 respect to any one sport utility vehicle. This
23 subparagraph (GG) is exempt from the provisions of
24 Section 250.

25 (b) Corporations.

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

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

32 (A) An amount equal to all amounts paid or accrued
33 to the taxpayer as interest and all distributions

1 received from regulated investment companies during
2 the taxable year to the extent excluded from gross
3 income in the computation of taxable income;

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

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

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

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

31 (i) the addition modification relating to the
32 net operating loss carried back or forward to the
33 taxable year from any taxable year ending prior to
34 December 31, 1986 shall be reduced by the amount of

1 addition modification under this subparagraph (E)
2 which related to that net operating loss and which
3 was taken into account in calculating the base
4 income of an earlier taxable year, and

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

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

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

22 (E-10) For taxable years 2001 and thereafter, an
23 amount equal to the bonus depreciation deduction (30%
24 of the adjusted basis of the qualified property) taken
25 on the taxpayer's federal income tax return for the
26 taxable year under subsection (k) of Section 168 of the
27 Internal Revenue Code. This subparagraph (E-10) does
28 not apply to any sport utility vehicle for which an
29 amount is added back under subparagraph (E-15); and

30 (E-11) If the taxpayer reports a capital gain or
31 loss on the taxpayer's federal income tax return for
32 the taxable year based on a sale or transfer of
33 property for which the taxpayer was required in any
34 taxable year to make an addition modification under

1 subparagraph (E-10), then an amount equal to the
2 aggregate amount of the deductions taken in all taxable
3 years under subparagraph (T) with respect to that
4 property.

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

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

28 This paragraph shall not apply to the following:

29 (i) an item of interest paid, accrued, or
30 incurred, directly or indirectly, to a foreign
31 person who is subject in a foreign country or
32 state, other than a state which requires mandatory
33 unitary reporting, to a tax on or measured by net
34 income with respect to such interest; or

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

6 (a) the foreign person, during the same
7 taxable year, paid, accrued, or incurred, the
8 interest to a person that is not a related
9 member, and

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

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

23 (iv) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a foreign
25 person if the taxpayer establishes by clear and
26 convincing evidence that the adjustments are
27 unreasonable; or if the taxpayer and the Director
28 agree in writing to the application or use of an
29 alternative method of apportionment under Section
30 304(f).

31 Nothing in this subsection shall preclude the
32 Director from making any other adjustment
33 otherwise allowed under Section 404 of this Act for
34 any tax year beginning after the effective date of

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

6 (E-13) For taxable years ending on or after
7 December 31, 2004, an amount equal to the amount of
8 intangible expenses and costs otherwise allowed as a
9 deduction in computing base income, and that were paid,
10 accrued, or incurred, directly or indirectly, to a
11 foreign person who would be a member of the same
12 unitary business group but for the fact that the
13 foreign person's business activity outside the United
14 States is 80% or more of that person's total business
15 activity. The addition modification required by this
16 subparagraph shall be reduced to the extent that
17 dividends were included in base income of the unitary
18 group for the same taxable year and received by the
19 taxpayer or by a member of the taxpayer's unitary
20 business group (including amounts included in gross
21 income pursuant to Sections 951 through 964 of the
22 Internal Revenue Code and amounts included in gross
23 income under Section 78 of the Internal Revenue Code)
24 with respect to the stock of the same person to whom
25 the intangible expenses and costs were directly or
26 indirectly paid, incurred, or accrued. The preceding
27 sentence shall not apply to the extent that the same
28 dividends caused a reduction to the addition
29 modification required under Section 203(b)(2)(E-12) of
30 this Act. As used in this subparagraph, the term
31 "intangible expenses and costs" includes (1) expenses,
32 losses, and costs for, or related to, the direct or
33 indirect acquisition, use, maintenance or management,
34 ownership, sale, exchange, or any other disposition of

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

10 This paragraph shall not apply to the following:

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

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

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

27 (b) the transaction giving rise to the
28 intangible expense or cost between the
29 taxpayer and the foreign person did not have as
30 a principal purpose the avoidance of Illinois
31 income tax, and is paid pursuant to a contract
32 or agreement that reflects arm's-length terms;
33 or

34 (iii) any item of intangible expense or cost

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

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

18 (E-15) For taxable years ending on or after
19 December 31, 2005, an amount equal to the sum of: (i)
20 any deduction taken under Section 179 of the Internal
21 Revenue Code for a sport utility vehicle for the
22 taxable year; plus (ii) any deduction taken under
23 Section 167(a) of the Internal Revenue Code for
24 depreciation of a sport utility vehicle for the taxable
25 year;

26 (E-20) If the taxpayer reports a capital gain or
27 loss on the taxpayer's federal income tax return for
28 the taxable year based on a sale or transfer of a sport
29 utility vehicle for which the taxpayer was required in
30 any taxable year to make an addition modification under
31 subparagraph (E-15), then an amount equal to the
32 aggregate amount of the deductions taken in all taxable
33 years under subparagraph (Y) with respect to that sport
34 utility vehicle. The taxpayer is required to make the

1 addition modification under this subparagraph only
2 once with respect to any one sport utility vehicle;

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

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

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

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

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

29 (J) An amount equal to all amounts included in such
30 total which are exempt from taxation by this State
31 either by reason of its statutes or Constitution or by
32 reason of the Constitution, treaties or statutes of the
33 United States; provided that, in the case of any
34 statute of this State that exempts income derived from

1 bonds or other obligations from the tax imposed under
2 this Act, the amount exempted shall be the interest net
3 of bond premium amortization;

4 (K) An amount equal to those dividends included in
5 such total which were paid by a corporation which
6 conducts business operations in an Enterprise Zone or
7 zones created under the Illinois Enterprise Zone Act
8 and conducts substantially all of its operations in an
9 Enterprise Zone or zones;

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

19 (M) For any taxpayer that is a financial
20 organization within the meaning of Section 304(c) of
21 this Act, an amount included in such total as interest
22 income from a loan or loans made by such taxpayer to a
23 borrower, to the extent that such a loan is secured by
24 property which is eligible for the Enterprise Zone
25 Investment Credit. To determine the portion of a loan
26 or loans that is secured by property eligible for a
27 Section 201(f) investment credit to the borrower, the
28 entire principal amount of the loan or loans between
29 the taxpayer and the borrower should be divided into
30 the basis of the Section 201(f) investment credit
31 property which secures the loan or loans, using for
32 this purpose the original basis of such property on the
33 date that it was placed in service in the Enterprise
34 Zone. The subtraction modification available to

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

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

30 (N) Two times any contribution made during the
31 taxable year to a designated zone organization to the
32 extent that the contribution (i) qualifies as a
33 charitable contribution under subsection (c) of
34 Section 170 of the Internal Revenue Code and (ii) must,

1 by its terms, be used for a project approved by the
2 Department of Commerce and Economic Opportunity under
3 Section 11 of the Illinois Enterprise Zone Act;

4 (O) An amount equal to: (i) 85% for taxable years
5 ending on or before December 31, 1992, or, a percentage
6 equal to the percentage allowable under Section
7 243(a)(1) of the Internal Revenue Code of 1986 for
8 taxable years ending after December 31, 1992, of the
9 amount by which dividends included in taxable income
10 and received from a corporation that is not created or
11 organized under the laws of the United States or any
12 state or political subdivision thereof, including, for
13 taxable years ending on or after December 31, 1988,
14 dividends received or deemed received or paid or deemed
15 paid under Sections 951 through 964 of the Internal
16 Revenue Code, exceed the amount of the modification
17 provided under subparagraph (G) of paragraph (2) of
18 this subsection (b) which is related to such dividends;
19 plus (ii) 100% of the amount by which dividends,
20 included in taxable income and received, including,
21 for taxable years ending on or after December 31, 1988,
22 dividends received or deemed received or paid or deemed
23 paid under Sections 951 through 964 of the Internal
24 Revenue Code, from any such corporation specified in
25 clause (i) that would but for the provisions of Section
26 1504 (b) (3) of the Internal Revenue Code be treated as
27 a member of the affiliated group which includes the
28 dividend recipient, exceed the amount of the
29 modification provided under subparagraph (G) of
30 paragraph (2) of this subsection (b) which is related
31 to such dividends;

32 (P) An amount equal to any contribution made to a
33 job training project established pursuant to the Tax
34 Increment Allocation Redevelopment Act;

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

6 (R) In the case of an attorney-in-fact with respect
7 to whom an interinsurer or a reciprocal insurer has
8 made the election under Section 835 of the Internal
9 Revenue Code, 26 U.S.C. 835, an amount equal to the
10 excess, if any, of the amounts paid or incurred by that
11 interinsurer or reciprocal insurer in the taxable year
12 to the attorney-in-fact over the deduction allowed to
13 that interinsurer or reciprocal insurer with respect
14 to the attorney-in-fact under Section 835(b) of the
15 Internal Revenue Code for the taxable year;

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

26 (T) For taxable years 2001 and thereafter, for the
27 taxable year in which the bonus depreciation deduction
28 (30% of the adjusted basis of the qualified property)
29 is taken on the taxpayer's federal income tax return
30 under subsection (k) of Section 168 of the Internal
31 Revenue Code and for each applicable taxable year
32 thereafter, an amount equal to "x", where:

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

1 taxpayer's federal income tax return on property
2 for which the bonus depreciation deduction (30% of
3 the adjusted basis of the qualified property) was
4 taken in any year under subsection (k) of Section
5 168 of the Internal Revenue Code, but not including
6 the bonus depreciation deduction; and

7 (2) "x" equals "y" multiplied by 30 and then
8 divided by 70 (or "y" multiplied by 0.429).

9 The aggregate amount deducted under this
10 subparagraph in all taxable years for any one piece of
11 property may not exceed the amount of the bonus
12 depreciation deduction (30% of the adjusted basis of
13 the qualified property) taken on that property on the
14 taxpayer's federal income tax return under subsection
15 (k) of Section 168 of the Internal Revenue Code;

16 (U) If the taxpayer reports a capital gain or loss
17 on the taxpayer's federal income tax return for the
18 taxable year based on a sale or transfer of property
19 for which the taxpayer was required in any taxable year
20 to make an addition modification under subparagraph
21 (E-10), then an amount equal to that addition
22 modification.

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

26 (V) The amount of: (i) any interest income (net of
27 the deductions allocable thereto) taken into account
28 for the taxable year with respect to a transaction with
29 a taxpayer that is required to make an addition
30 modification with respect to such transaction under
31 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
32 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
33 the amount of such addition modification and (ii) any
34 income from intangible property (net of the deductions

1 allocable thereto) taken into account for the taxable
2 year with respect to a transaction with a taxpayer that
3 is required to make an addition modification with
4 respect to such transaction under Section
5 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
6 203(d)(2)(D-8), but not to exceed the amount of such
7 addition modification;

8 (W) An amount equal to the interest income taken
9 into account for the taxable year (net of the
10 deductions allocable thereto) with respect to
11 transactions with a foreign person who would be a
12 member of the taxpayer's unitary business group but for
13 the fact that the foreign person's business activity
14 outside the United States is 80% or more of that
15 person's total business activity, but not to exceed the
16 addition modification required to be made for the same
17 taxable year under Section 203(b)(2)(E-12) for
18 interest paid, accrued, or incurred, directly or
19 indirectly, to the same foreign person; ~~and~~

20 (X) An amount equal to the income from intangible
21 property taken into account for the taxable year (net
22 of the deductions allocable thereto) with respect to
23 transactions with a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact that the foreign person's business activity
26 outside the United States is 80% or more of that
27 person's total business activity, but not to exceed the
28 addition modification required to be made for the same
29 taxable year under Section 203(b)(2)(E-13) for
30 intangible expenses and costs paid, accrued, or
31 incurred, directly or indirectly, to the same foreign
32 person; ~~and~~

33 (Y) For a taxable year in which an amount is added
34 back under paragraph (E-15) with respect to a sport

1 utility vehicle and for each subsequent taxable year,
2 an amount equal to the deduction, if any, to which the
3 taxpayer would have been entitled under Section 179 or
4 Section 167(a) of the Internal Revenue Code with
5 respect to that sport utility vehicle if that sport
6 utility vehicle were a "passenger automobile" within
7 the meaning of Section 280F(d)(5) of the Internal
8 Revenue Code. This subparagraph (Y) is exempt from the
9 provisions of Section 250; and

10 (Z) If the taxpayer reports a capital gain or loss
11 on the taxpayer's federal income tax return for the
12 taxable year based on a sale or transfer of a sport
13 utility vehicle for which the taxpayer was required in
14 any taxable year to make an addition modification under
15 subparagraph (E-15), then an amount equal to that
16 addition modification. The taxpayer is allowed to take
17 the deduction under this subparagraph only once with
18 respect to any one sport utility vehicle. This
19 subparagraph (Z) is exempt from the provisions of
20 Section 250.

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

25 (c) Trusts and estates.

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

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

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

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

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

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

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

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

27 (i) the addition modification relating to the
28 net operating loss carried back or forward to the
29 taxable year from any taxable year ending prior to
30 December 31, 1986 shall be reduced by the amount of
31 addition modification under this subparagraph (E)
32 which related to that net operating loss and which
33 was taken into account in calculating the base
34 income of an earlier taxable year, and

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

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

13 (F) For taxable years ending on or after January 1,
14 1989, an amount equal to the tax deducted pursuant to
15 Section 164 of the Internal Revenue Code if the trust
16 or estate is claiming the same tax for purposes of the
17 Illinois foreign tax credit under Section 601 of this
18 Act;

19 (G) An amount equal to the amount of the capital
20 gain deduction allowable under the Internal Revenue
21 Code, to the extent deducted from gross income in the
22 computation of taxable income;

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

28 (G-10) For taxable years 2001 and thereafter, an
29 amount equal to the bonus depreciation deduction (30%
30 of the adjusted basis of the qualified property) taken
31 on the taxpayer's federal income tax return for the
32 taxable year under subsection (k) of Section 168 of the
33 Internal Revenue Code. This subparagraph (G-10) does
34 not apply to any sport utility vehicle for which an

1 amount is added back under subparagraph (G-15); and

2 (G-11) If the taxpayer reports a capital gain or
3 loss on the taxpayer's federal income tax return for
4 the taxable year based on a sale or transfer of
5 property for which the taxpayer was required in any
6 taxable year to make an addition modification under
7 subparagraph (G-10), then an amount equal to the
8 aggregate amount of the deductions taken in all taxable
9 years under subparagraph (R) with respect to that
10 property.

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

14 (G-12) For taxable years ending on or after
15 December 31, 2004, an amount equal to the amount
16 otherwise allowed as a deduction in computing base
17 income for interest paid, accrued, or incurred,
18 directly or indirectly, to a foreign person who would
19 be a member of the same 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 the foreign
22 person's total business activity. The addition
23 modification required by this subparagraph shall be
24 reduced to the extent that dividends were included in
25 base income of the unitary group for the same taxable
26 year and received by the taxpayer or by a member of the
27 taxpayer's unitary business group (including amounts
28 included in gross income pursuant to Sections 951
29 through 964 of the Internal Revenue Code and amounts
30 included in gross income under Section 78 of the
31 Internal Revenue Code) with respect to the stock of the
32 same person to whom the interest was paid, accrued, or
33 incurred.

34 This paragraph shall not apply to the following:

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

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

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

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

29 (iv) an item of interest paid, accrued, or
30 incurred, directly or indirectly, to a foreign
31 person if the taxpayer establishes by clear and
32 convincing evidence that the adjustments are
33 unreasonable; or if the taxpayer and the Director
34 agree in writing to the application or use of an

1 alternative method of apportionment under Section
2 304(f).

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

12 (G-13) For taxable years ending on or after
13 December 31, 2004, an amount equal to the amount of
14 intangible expenses and costs otherwise allowed as a
15 deduction in computing base income, and that were paid,
16 accrued, or incurred, directly or indirectly, to a
17 foreign person who would be a member of the same
18 unitary business group but for the fact that the
19 foreign person's business activity outside the United
20 States is 80% or more of that person's total business
21 activity. The addition modification required by this
22 subparagraph shall be reduced to the extent that
23 dividends were included in base income of the unitary
24 group for the same taxable year and received by the
25 taxpayer or by a member of the taxpayer's unitary
26 business group (including amounts included in gross
27 income pursuant to Sections 951 through 964 of the
28 Internal Revenue Code and amounts included in gross
29 income under Section 78 of the Internal Revenue Code)
30 with respect to the stock of the same person to whom
31 the intangible expenses and costs were directly or
32 indirectly paid, incurred, or accrued. The preceding
33 sentence shall not apply to the extent that the same
34 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 foreign
20 person who is subject in a foreign country or
21 state, other than a state which requires mandatory
22 unitary reporting, to a tax on or measured by net
23 income with respect 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
27 on a preponderance of the evidence, both of the
28 following:

29 (a) the foreign person during the same
30 taxable year paid, accrued, or incurred, the
31 intangible expense or cost to a person that is
32 not a related member, and

33 (b) the transaction giving rise to the
34 intangible expense or cost between the

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

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

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

24 (G-15) For taxable years ending on or after
25 December 31, 2005, an amount equal to the sum of: (i)
26 any deduction taken under Section 179 of the Internal
27 Revenue Code for a sport utility vehicle for the
28 taxable year; plus (ii) any deduction taken under
29 Section 167(a) of the Internal Revenue Code for
30 depreciation of a sport utility vehicle for the taxable
31 year;

32 (G-20) If the taxpayer reports a capital gain or
33 loss on the taxpayer's federal income tax return for
34 the taxable year based on a sale or transfer of a sport

1 utility vehicle for which the taxpayer was required in
2 any taxable year to make an addition modification under
3 subparagraph (G-15), then an amount equal to the
4 aggregate amount of the deductions taken in all taxable
5 years under subparagraph (W) with respect to that sport
6 utility vehicle. The taxpayer is required to make the
7 addition modification under this subparagraph only
8 once with respect to any one sport utility vehicle;

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
27 taxable income as modified by subparagraphs (A), (B),
28 (C), (D), (E), (F) and (G) which are exempt from
29 taxation by this State either by reason of its statutes
30 or Constitution or by reason of the Constitution,
31 treaties or statutes of the United States; provided
32 that, in the case of any statute of this State that
33 exempts income derived from bonds or other obligations
34 from the tax imposed under this Act, the amount

1 exempted shall be the interest net of bond premium
2 amortization;

3 (L) With the exception of any amounts subtracted
4 under subparagraph (K), an amount equal to the sum of
5 all amounts disallowed as deductions by (i) Sections
6 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
7 as now or hereafter amended, and all amounts of
8 expenses allocable to interest and disallowed as
9 deductions by Section 265(1) of the Internal Revenue
10 Code of 1954, as now or hereafter amended; and (ii) for
11 taxable years ending on or after August 13, 1999,
12 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
13 the Internal Revenue Code; the provisions of this
14 subparagraph are exempt from the provisions of Section
15 250;

16 (M) An amount equal to those dividends included in
17 such total which were paid by a corporation which
18 conducts business operations in an Enterprise Zone or
19 zones created under the Illinois Enterprise Zone Act
20 and conducts substantially all of its operations in an
21 Enterprise Zone or Zones;

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

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

34 (P) An amount equal to the amount of the deduction

1 used to compute the federal income tax credit for
2 restoration of substantial amounts held under claim of
3 right for the taxable year pursuant to Section 1341 of
4 the Internal Revenue Code of 1986;

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

1 this paragraph in gross income for federal income tax
2 purposes. This paragraph is exempt from the provisions
3 of Section 250;

4 (R) For taxable years 2001 and thereafter, for the
5 taxable year in which the bonus depreciation deduction
6 (30% of the adjusted basis of the qualified property)
7 is taken on the taxpayer's federal income tax return
8 under subsection (k) of Section 168 of the Internal
9 Revenue Code and for each applicable taxable year
10 thereafter, an amount equal to "x", where:

11 (1) "y" equals the amount of the depreciation
12 deduction taken for the taxable year on the
13 taxpayer's federal income tax return on property
14 for which the bonus depreciation deduction (30% of
15 the adjusted basis of the qualified property) 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; and

19 (2) "x" equals "y" multiplied by 30 and then
20 divided by 70 (or "y" multiplied by 0.429).

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 (30% of the adjusted basis of
25 the qualified property) taken on that property on the
26 taxpayer's federal income tax return under subsection
27 (k) of Section 168 of the Internal Revenue Code;

28 (S) If the taxpayer reports a capital gain or loss
29 on the taxpayer's federal income tax return for the
30 taxable year based on a sale or transfer of property
31 for which the taxpayer was required in any taxable year
32 to make an addition modification under subparagraph
33 (G-10), then an amount equal to that addition
34 modification.

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

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

20 (U) An amount equal to the interest income taken
21 into account for the taxable year (net of the
22 deductions allocable thereto) with respect to
23 transactions with a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact the foreign person's business activity
26 outside the United States is 80% or more of that
27 person's total business activity, but not to exceed the
28 addition modification required to be made for the same
29 taxable year under Section 203(c)(2)(G-12) for
30 interest paid, accrued, or incurred, directly or
31 indirectly, to the same foreign person; ~~and~~

32 (V) An amount equal to the income from intangible
33 property taken into account for the taxable year (net
34 of the deductions allocable thereto) with respect to

1 transactions with a foreign person who would be a
2 member of the taxpayer's unitary business group but for
3 the fact that the foreign person's business activity
4 outside the United States is 80% or more of that
5 person's total business activity, but not to exceed the
6 addition modification required to be made for the same
7 taxable year under Section 203(c)(2)(G-13) for
8 intangible expenses and costs paid, accrued, or
9 incurred, directly or indirectly, to the same foreign
10 person;:-

11 (W) For a taxable year in which an amount is added
12 back under paragraph (G-15) with respect to a sport
13 utility vehicle and for each subsequent taxable year,
14 an amount equal to the deduction, if any, to which the
15 taxpayer would have been entitled under Section 179 or
16 Section 167(a) of the Internal Revenue Code with
17 respect to that sport utility vehicle if that sport
18 utility vehicle were a "passenger automobile" within
19 the meaning of Section 280F(d)(5) of the Internal
20 Revenue Code. This subparagraph (W) is exempt from the
21 provisions of Section 250; and

22 (X) If the taxpayer reports a capital gain or loss
23 on the taxpayer's federal income tax return for the
24 taxable year based on a sale or transfer of a sport
25 utility vehicle for which the taxpayer was required in
26 any taxable year to make an addition modification under
27 subparagraph (G-15), then an amount equal to that
28 addition modification. The taxpayer is allowed to take
29 the deduction under this subparagraph only once with
30 respect to any one sport utility vehicle. This
31 subparagraph (X) is exempt from the provisions of
32 Section 250.

33 (3) Limitation. The amount of any modification
34 otherwise required under this subsection shall, under

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

6 (d) Partnerships.

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

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

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

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

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

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

27 (D-5) For taxable years 2001 and thereafter, an
28 amount equal to the bonus depreciation deduction (30%
29 of the adjusted basis of the qualified property) taken
30 on the taxpayer's federal income tax return for the
31 taxable year under subsection (k) of Section 168 of the
32 Internal Revenue Code. This subparagraph (D-5) shall
33 not apply to any sport utility vehicle for which an

1 amount is added back under subparagraph (D-10);

2 (D-6) If the taxpayer reports a capital gain or
3 loss on the taxpayer's federal income tax return for
4 the taxable year based on a sale or transfer of
5 property for which the taxpayer was required in any
6 taxable year to make an addition modification under
7 subparagraph (D-5), then an amount equal to the
8 aggregate amount of the deductions taken in all taxable
9 years under subparagraph (O) with respect to that
10 property.

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

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

33 This paragraph shall not apply to the following:

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

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

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

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

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

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

28 (iv) an item of interest paid, accrued, or
29 incurred, directly or indirectly, to a foreign
30 person if the taxpayer establishes by clear and
31 convincing evidence that the adjustments are
32 unreasonable; or if the taxpayer and the Director
33 agree in writing to the application or use of an
34 alternative method of apportionment under Section

1 304(f) .

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

11 (D-8) For taxable years ending on or after December
12 31, 2004, an amount equal to the amount of intangible
13 expenses and costs otherwise allowed as a deduction in
14 computing base income, and that were paid, accrued, or
15 incurred, directly or indirectly, to a foreign person
16 who would be a member of the same unitary business
17 group but for the fact that the foreign person's
18 business activity outside the United States is 80% or
19 more of that person's total business activity. The
20 addition modification required by this subparagraph
21 shall be reduced to the extent that dividends were
22 included in base income of the unitary group for the
23 same taxable year and received by the taxpayer or by a
24 member of the taxpayer's unitary business group
25 (including amounts included in gross income pursuant
26 to Sections 951 through 964 of the Internal Revenue
27 Code and amounts included in gross income under Section
28 78 of the Internal Revenue Code) with respect to the
29 stock of the same person to whom the intangible
30 expenses and costs were directly or indirectly paid,
31 incurred or accrued. The preceding sentence shall not
32 apply to the extent that the same dividends caused a
33 reduction to the addition modification required under
34 Section 203(d)(2)(D-7) of this Act. As used in this

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

15 This paragraph shall not apply to the following:

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

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

28 (a) the foreign person during the same
29 taxable year paid, accrued, or incurred, the
30 intangible expense or cost to a person that is
31 not a related member, and

32 (b) the transaction giving rise to the
33 intangible expense or cost between the
34 taxpayer and the foreign person did not have as

1 a principal purpose the avoidance of Illinois
2 income tax, and is paid pursuant to a contract
3 or agreement that reflects arm's-length terms;
4 or

5 (iii) any item of intangible expense or cost
6 paid, accrued, or incurred, directly or
7 indirectly, from a transaction with a foreign
8 person if the taxpayer establishes by clear and
9 convincing evidence, that the adjustments are
10 unreasonable; or if the taxpayer and the Director
11 agree in writing to the application or use of an
12 alternative method of apportionment under Section
13 304(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 (D-10) For taxable years ending on or after
24 December 31, 2005, an amount equal to the sum of: (i)
25 any deduction taken under Section 179 of the Internal
26 Revenue Code for a sport utility vehicle for the
27 taxable year; plus (ii) any deduction taken under
28 Section 167(a) of the Internal Revenue Code for
29 depreciation of a sport utility vehicle for the taxable
30 year;

31 (D-15) If the taxpayer reports a capital gain or
32 loss on the taxpayer's federal income tax return for
33 the taxable year based on a sale or transfer of a sport
34 utility vehicle for which the taxpayer was required in

1 any taxable year to make an addition modification under
2 subparagraph (D-10), then an amount equal to the
3 aggregate amount of the deductions taken in all taxable
4 years under subparagraph (T) with respect to that sport
5 utility vehicle. The taxpayer is required to make the
6 addition modification under this subparagraph only
7 once with respect to any one sport utility vehicle;

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

10 (E) The valuation limitation amount;

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

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

24 (H) Any income of the partnership which
25 constitutes personal service income as defined in
26 Section 1348 (b) (1) of the Internal Revenue Code (as
27 in effect December 31, 1981) or a reasonable allowance
28 for compensation paid or accrued for services rendered
29 by partners to the partnership, whichever is greater;

30 (I) An amount equal to all amounts of income
31 distributable to an entity subject to the Personal
32 Property Tax Replacement Income Tax imposed by
33 subsections (c) and (d) of Section 201 of this Act
34 including amounts distributable to organizations

1 exempt from federal income tax by reason of Section
2 501(a) of the Internal Revenue Code;

3 (J) With the exception of any amounts subtracted
4 under subparagraph (G), an amount equal to the sum of
5 all amounts disallowed as deductions by (i) Sections
6 171(a) (2), and 265(2) of the Internal Revenue Code of
7 1954, as now or hereafter amended, and all amounts of
8 expenses allocable to interest and disallowed as
9 deductions by Section 265(1) of the Internal Revenue
10 Code, as now or hereafter amended; and (ii) for taxable
11 years ending on or after August 13, 1999, Sections
12 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
13 Internal Revenue Code; the provisions of this
14 subparagraph are exempt from the provisions of Section
15 250;

16 (K) An amount equal to those dividends included in
17 such total which were paid by a corporation which
18 conducts business operations in an Enterprise Zone or
19 zones created under the Illinois Enterprise Zone Act,
20 enacted by the 82nd General Assembly, and conducts
21 substantially all of its operations in an Enterprise
22 Zone or Zones;

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

26 (M) An amount equal to those dividends included in
27 such total that were paid by a corporation that
28 conducts business operations in a federally designated
29 Foreign Trade Zone or Sub-Zone and that is designated a
30 High Impact Business located in Illinois; provided
31 that dividends eligible for the deduction provided in
32 subparagraph (K) of paragraph (2) of this subsection
33 shall not be eligible for the deduction provided under
34 this subparagraph (M);

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

6 (O) For taxable years 2001 and thereafter, for the
7 taxable year in which the bonus depreciation deduction
8 (30% of the adjusted basis of the qualified property)
9 is taken on the taxpayer's federal income tax return
10 under subsection (k) of Section 168 of the Internal
11 Revenue Code and for each applicable taxable year
12 thereafter, an amount equal to "x", where:

13 (1) "y" equals the amount of the depreciation
14 deduction taken for the taxable year on the
15 taxpayer's federal income tax return on property
16 for which the bonus depreciation deduction (30% of
17 the adjusted basis of the qualified property) was
18 taken in any year under subsection (k) of Section
19 168 of the Internal Revenue Code, but not including
20 the bonus depreciation deduction; and

21 (2) "x" equals "y" multiplied by 30 and then
22 divided by 70 (or "y" multiplied by 0.429).

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 (30% of the adjusted basis of
27 the qualified property) taken on that property on the
28 taxpayer's federal income tax return under subsection
29 (k) of Section 168 of the Internal Revenue Code;

30 (P) If the taxpayer reports a capital gain or loss
31 on the taxpayer's federal income tax return for the
32 taxable year based on a sale or transfer of property
33 for which the taxpayer was required in any taxable year
34 to make an addition modification under subparagraph

1 (D-5), then an amount equal to that addition
2 modification.

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

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

22 (R) An amount equal to the interest income taken
23 into account for the taxable year (net of the
24 deductions allocable thereto) with respect to
25 transactions with a foreign person who would be a
26 member of the taxpayer's unitary business group but for
27 the fact that the foreign person's business activity
28 outside the United States is 80% or more of that
29 person's total business activity, but not to exceed the
30 addition modification required to be made for the same
31 taxable year under Section 203(d)(2)(D-7) for interest
32 paid, accrued, or incurred, directly or indirectly, to
33 the same foreign person; ~~and~~

34 (S) An amount equal to the income from intangible

1 property taken into account for the taxable year (net
2 of the deductions allocable thereto) with respect to
3 transactions with a foreign person who would be a
4 member of the taxpayer's unitary business group but for
5 the fact that the foreign person's business activity
6 outside the United States is 80% or more of that
7 person's total business activity, but not to exceed the
8 addition modification required to be made for the same
9 taxable year under Section 203(d)(2)(D-8) for
10 intangible expenses and costs paid, accrued, or
11 incurred, directly or indirectly, to the same foreign
12 person;—

13 (T) For a taxable year in which an amount is added
14 back under paragraph (D-10) with respect to a sport
15 utility vehicle and for each subsequent taxable year,
16 an amount equal to the deduction, if any, to which the
17 taxpayer would have been entitled under Section 179 or
18 Section 167(a) of the Internal Revenue Code with
19 respect to that sport utility vehicle if that sport
20 utility vehicle were a "passenger automobile" within
21 the meaning of Section 280F(d)(5) of the Internal
22 Revenue Code. This subparagraph (T) is exempt from the
23 provisions of Section 250; and

24 (U) If the taxpayer reports a capital gain or loss
25 on the taxpayer's federal income tax return for the
26 taxable year based on a sale or transfer of a sport
27 utility vehicle for which the taxpayer was required in
28 any taxable year to make an addition modification under
29 subparagraph (D-10), then an amount equal to that
30 addition modification. The taxpayer is allowed to take
31 the deduction under this subparagraph only once with
32 respect to any one sport utility vehicle. This
33 subparagraph (U) is exempt from the provisions of
34 Section 250.

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

2 (1) In general. Subject to the provisions of paragraph
3 (2) and subsection (b) (3), for purposes of this Section
4 and Section 803(e), a taxpayer's gross income, adjusted
5 gross income, or taxable income for the taxable year shall
6 mean the amount of gross income, adjusted gross income or
7 taxable income properly reportable for federal income tax
8 purposes for the taxable year under the provisions of the
9 Internal Revenue Code. Taxable income may be less than
10 zero. However, for taxable years ending on or after
11 December 31, 1986, net operating loss carryforwards from
12 taxable years ending prior to December 31, 1986, may not
13 exceed the sum of federal taxable income for the taxable
14 year before net operating loss deduction, plus the excess
15 of addition modifications over subtraction modifications
16 for the taxable year. For taxable years ending prior to
17 December 31, 1986, taxable income may never be an amount in
18 excess of the net operating loss for the taxable year as
19 defined in subsections (c) and (d) of Section 172 of the
20 Internal Revenue Code, provided that when taxable income of
21 a corporation (other than a Subchapter S corporation),
22 trust, or estate is less than zero and addition
23 modifications, other than those provided by subparagraph
24 (E) of paragraph (2) of subsection (b) for corporations or
25 subparagraph (E) of paragraph (2) of subsection (c) for
26 trusts and estates, exceed subtraction modifications, an
27 addition modification must be made under those
28 subparagraphs for any other taxable year to which the
29 taxable income less than zero (net operating loss) is
30 applied under Section 172 of the Internal Revenue Code or
31 under subparagraph (E) of paragraph (2) of this subsection
32 (e) applied in conjunction with Section 172 of the Internal
33 Revenue Code.

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

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

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

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

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

23 (E) Consolidated corporations. In the case of a
24 corporation which is a member of an affiliated group of
25 corporations filing a consolidated income tax return
26 for the taxable year for federal income tax purposes,
27 taxable income determined as if such corporation had
28 filed a separate return for federal income tax purposes
29 for the taxable year and each preceding taxable year
30 for which it was a member of an affiliated group. For
31 purposes of this subparagraph, the taxpayer's separate
32 taxable income shall be determined as if the election
33 provided by Section 243(b) (2) of the Internal Revenue
34 Code had been in effect for all such years;

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

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

22 (H) Partnerships. In the case of a partnership,
23 taxable income determined in accordance with Section
24 703 of the Internal Revenue Code, except that taxable
25 income shall take into account those items which are
26 required by Section 703(a)(1) to be separately stated
27 but which would be taken into account by an individual
28 in calculating his taxable income.

29 (3) Recapture of business expenses on disposition of
30 asset or business. Notwithstanding any other law to the
31 contrary, if in prior years income from an asset or
32 business has been classified as business income and in a
33 later year is demonstrated to be non-business income, then
34 all expenses, without limitation, deducted in such later

1 year and in the 2 immediately preceding taxable years
2 related to that asset or business that generated the
3 non-business income shall be added back and recaptured as
4 business income in the year of the disposition of the asset
5 or business. Such amount shall be apportioned to Illinois
6 using the greater of the apportionment fraction computed
7 for the business under Section 304 of this Act for the
8 taxable year or the average of the apportionment fractions
9 computed for the business under Section 304 of this Act for
10 the taxable year and for the 2 immediately preceding
11 taxable years.

12 (f) Valuation limitation amount.

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

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

21 (B) The lesser of (i) the sum of the pre-August 1,
22 1969 appreciation amounts (to the extent consisting of
23 capital gain) for all property in respect of which such
24 gain was reported for federal income tax purposes for
25 the taxable year, or (ii) the net capital gain for the
26 taxable year, reduced in either case by any amount of
27 such gain included in the amount determined under
28 subsection (a) (2) (F) or (c) (2) (H).

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

30 (A) If the fair market value of property referred
31 to in paragraph (1) was readily ascertainable on August
32 1, 1969, the pre-August 1, 1969 appreciation amount for
33 such property is the lesser of (i) the excess of such
34 fair market value over the taxpayer's basis (for

1 determining gain) for such property on that date
2 (determined under the Internal Revenue Code as in
3 effect on that date), or (ii) the total gain realized
4 and reportable for federal income tax purposes in
5 respect of the sale, exchange or other disposition of
6 such property.

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

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

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

24 (h) Legislative intention. Except as expressly provided by
25 this Section there shall be no modifications or limitations on
26 the amounts of income, gain, loss or deduction taken into
27 account in determining gross income, adjusted gross income or
28 taxable income for federal income tax purposes for the taxable
29 year, or in the amount of such items entering into the
30 computation of base income and net income under this Act for
31 such taxable year, whether in respect of property values as of
32 August 1, 1969 or otherwise.

1 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
2 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
3 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
4 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

5 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

6 Sec. 1501. Definitions.

7 (a) In general. When used in this Act, where not otherwise
8 distinctly expressed or manifestly incompatible with the
9 intent thereof:

10 (1) Business income. The term "business income" means
11 all income that may be treated as apportionable business
12 income under the Constitution of the United States.
13 Business income is net of the deductions allocable thereto.
14 Such term does not include compensation or the deductions
15 allocable thereto. For each taxable year beginning on or
16 after January 1, 2003, a taxpayer may elect to treat all
17 income other than compensation as business income. This
18 election shall be made in accordance with rules adopted by
19 the Department and, once made, shall be irrevocable.

20 (2) Commercial domicile. The term "commercial
21 domicile" means the principal place from which the trade or
22 business of the taxpayer is directed or managed.

23 (3) Compensation. The term "compensation" means wages,
24 salaries, commissions and any other form of remuneration
25 paid to employees for personal services.

26 (4) Corporation. The term "corporation" includes
27 associations, joint-stock companies, insurance companies
28 and cooperatives. Any entity, including a limited
29 liability company formed under the Illinois Limited
30 Liability Company Act, shall be treated as a corporation if
31 it is so classified for federal income tax purposes.

32 (5) Department. The term "Department" means the
33 Department of Revenue of this State.

1 (6) Director. The term "Director" means the Director of
2 Revenue of this State.

3 (7) Fiduciary. The term "fiduciary" means a guardian,
4 trustee, executor, administrator, receiver, or any person
5 acting in any fiduciary capacity for any person.

6 (8) Financial organization.

7 (A) The term "financial organization" means any
8 bank, bank holding company, trust company, savings
9 bank, industrial bank, land bank, safe deposit
10 company, private banker, savings and loan association,
11 building and loan association, credit union, currency
12 exchange, cooperative bank, small loan company, sales
13 finance company, investment company, or any person
14 which is owned by a bank or bank holding company. For
15 the purpose of this Section a "person" will include
16 only those persons which a bank holding company may
17 acquire and hold an interest in, directly or
18 indirectly, under the provisions of the Bank Holding
19 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
20 where interests in any person must be disposed of
21 within certain required time limits under the Bank
22 Holding Company Act of 1956.

23 (B) For purposes of subparagraph (A) of this
24 paragraph, the term "bank" includes (i) any entity that
25 is regulated by the Comptroller of the Currency under
26 the National Bank Act, or by the Federal Reserve Board,
27 or by the Federal Deposit Insurance Corporation and
28 (ii) any federally or State chartered bank operating as
29 a credit card bank.

30 (C) For purposes of subparagraph (A) of this
31 paragraph, the term "sales finance company" has the
32 meaning provided in the following item (i) or (ii):

33 (i) A person primarily engaged in one or more
34 of the following businesses: the business of

1 purchasing customer receivables, the business of
2 making loans upon the security of customer
3 receivables, the business of making loans for the
4 express purpose of funding purchases of tangible
5 personal property or services by the borrower, or
6 the business of finance leasing. For purposes of
7 this item (i), "customer receivable" means:

8 (a) a retail installment contract or
9 retail charge agreement within the meaning of
10 the Sales Finance Agency Act, the Retail
11 Installment Sales Act, or the Motor Vehicle
12 Retail Installment Sales Act;

13 (b) an installment, charge, credit, or
14 similar contract or agreement arising from the
15 sale of tangible personal property or services
16 in a transaction involving a deferred payment
17 price payable in one or more installments
18 subsequent to the sale; or

19 (c) the outstanding balance of a contract
20 or agreement described in provisions (a) or (b)
21 of this item (i).

22 A customer receivable need not provide for
23 payment of interest on deferred payments. A sales
24 finance company may purchase a customer receivable
25 from, or make a loan secured by a customer
26 receivable to, the seller in the original
27 transaction or to a person who purchased the
28 customer receivable directly or indirectly from
29 that seller.

30 (ii) A corporation meeting each of the
31 following criteria:

32 (a) the corporation must be a member of an
33 "affiliated group" within the meaning of
34 Section 1504(a) of the Internal Revenue Code,

1 determined without regard to Section 1504(b)
2 of the Internal Revenue Code;

3 (b) more than 50% of the gross income of
4 the corporation for the taxable year must be
5 interest income derived from qualifying loans.
6 A "qualifying loan" is a loan made to a member
7 of the corporation's affiliated group that
8 originates customer receivables (within the
9 meaning of item (i)) or to whom customer
10 receivables originated by a member of the
11 affiliated group have been transferred, to the
12 extent the average outstanding balance of
13 loans from that corporation to members of its
14 affiliated group during the taxable year do not
15 exceed the limitation amount for that
16 corporation. The "limitation amount" for a
17 corporation is the average outstanding
18 balances during the taxable year of customer
19 receivables (within the meaning of item (i))
20 originated by all members of the affiliated
21 group. If the average outstanding balances of
22 the loans made by a corporation to members of
23 its affiliated group exceed the limitation
24 amount, the interest income of that
25 corporation from qualifying loans shall be
26 equal to its interest income from loans to
27 members of its affiliated groups times a
28 fraction equal to the limitation amount
29 divided by the average outstanding balances of
30 the loans made by that corporation to members
31 of its affiliated group;

32 (c) the total of all shareholder's equity
33 (including, without limitation, paid-in
34 capital on common and preferred stock and

1 retained earnings) of the corporation plus the
2 total of all of its loans, advances, and other
3 obligations payable or owed to members of its
4 affiliated group may not exceed 20% of the
5 total assets of the corporation at any time
6 during the tax year; and

7 (d) more than 50% of all interest-bearing
8 obligations of the affiliated group payable to
9 persons outside the group determined in
10 accordance with generally accepted accounting
11 principles must be obligations of the
12 corporation.

13 This amendatory Act of the 91st General Assembly is
14 declaratory of existing law.

15 (D) Subparagraphs (B) and (C) of this paragraph are
16 declaratory of existing law and apply retroactively,
17 for all tax years beginning on or before December 31,
18 1996, to all original returns, to all amended returns
19 filed no later than 30 days after the effective date of
20 this amendatory Act of 1996, and to all notices issued
21 on or before the effective date of this amendatory Act
22 of 1996 under subsection (a) of Section 903, subsection
23 (a) of Section 904, subsection (e) of Section 909, or
24 Section 912. A taxpayer that is a "financial
25 organization" that engages in any transaction with an
26 affiliate shall be a "financial organization" for all
27 purposes of this Act.

28 (E) For all tax years beginning on or before
29 December 31, 1996, a taxpayer that falls within the
30 definition of a "financial organization" under
31 subparagraphs (B) or (C) of this paragraph, but who
32 does not fall within the definition of a "financial
33 organization" under the Proposed Regulations issued by
34 the Department of Revenue on July 19, 1996, may

1 irrevocably elect to apply the Proposed Regulations
2 for all of those years as though the Proposed
3 Regulations had been lawfully promulgated, adopted,
4 and in effect for all of those years. For purposes of
5 applying subparagraphs (B) or (C) of this paragraph to
6 all of those years, the election allowed by this
7 subparagraph applies only to the taxpayer making the
8 election and to those members of the taxpayer's unitary
9 business group who are ordinarily required to
10 apportion business income under the same subsection of
11 Section 304 of this Act as the taxpayer making the
12 election. No election allowed by this subparagraph
13 shall be made under a claim filed under subsection (d)
14 of Section 909 more than 30 days after the effective
15 date of this amendatory Act of 1996.

16 (F) Finance Leases. For purposes of this
17 subsection, a finance lease shall be treated as a loan
18 or other extension of credit, rather than as a lease,
19 regardless of how the transaction is characterized for
20 any other purpose, including the purposes of any
21 regulatory agency to which the lessor is subject. A
22 finance lease is any transaction in the form of a lease
23 in which the lessee is treated as the owner of the
24 leased asset entitled to any deduction for
25 depreciation allowed under Section 167 of the Internal
26 Revenue Code.

27 (9) Fiscal year. The term "fiscal year" means an
28 accounting period of 12 months ending on the last day of
29 any month other than December.

30 (10) Includes and including. The terms "includes" and
31 "including" when used in a definition contained in this Act
32 shall not be deemed to exclude other things otherwise
33 within the meaning of the term defined.

34 (11) Internal Revenue Code. The term "Internal Revenue

1 Code" means the United States Internal Revenue Code of 1954
2 or any successor law or laws relating to federal income
3 taxes in effect for the taxable year.

4 (11.5) Investment partnership.

5 (A) The term "investment partnership" means any
6 entity that is treated as a partnership for federal
7 income tax purposes that meets the following
8 requirements:

9 (i) no less than 90% of the partnership's cost
10 of its total assets consists of qualifying
11 investment securities, deposits at banks or other
12 financial institutions, and office space and
13 equipment reasonably necessary to carry on its
14 activities as an investment partnership;

15 (ii) no less than 90% of its gross income
16 consists of interest, dividends, and gains from
17 the sale or exchange of qualifying investment
18 securities; and

19 (iii) the partnership is not a dealer in
20 qualifying investment securities.

21 (B) For purposes of this paragraph (11.5), the term
22 "qualifying investment securities" includes all of the
23 following:

24 (i) common stock, including preferred or debt
25 securities convertible into common stock, and
26 preferred stock;

27 (ii) bonds, debentures, and other debt
28 securities;

29 (iii) foreign and domestic currency deposits
30 secured by federal, state, or local governmental
31 agencies;

32 (iv) mortgage or asset-backed securities
33 secured by federal, state, or local governmental
34 agencies;

1 (v) repurchase agreements and loan
2 participations;

3 (vi) foreign currency exchange contracts and
4 forward and futures contracts on foreign
5 currencies;

6 (vii) stock and bond index securities and
7 futures contracts and other similar financial
8 securities and futures contracts on those
9 securities;

10 (viii) options for the purchase or sale of any
11 of the securities, currencies, contracts, or
12 financial instruments described in items (i) to
13 (vii), inclusive;

14 (ix) regulated futures contracts;

15 (x) commodities (not described in Section
16 1221(a)(1) of the Internal Revenue Code) or
17 futures, forwards, and options with respect to
18 such commodities, provided, however, that any item
19 of a physical commodity to which title is actually
20 acquired in the partnership's capacity as a dealer
21 in such commodity shall not be a qualifying
22 investment security;

23 (xi) derivatives; and

24 (xii) a partnership interest in another
25 partnership that is an investment partnership.

26 (12) Mathematical error. The term "mathematical error"
27 includes the following types of errors, omissions, or
28 defects in a return filed by a taxpayer which prevents
29 acceptance of the return as filed for processing:

30 (A) arithmetic errors or incorrect computations on
31 the return or supporting schedules;

32 (B) entries on the wrong lines;

33 (C) omission of required supporting forms or
34 schedules or the omission of the information in whole

1 or in part called for thereon; and

2 (D) an attempt to claim, exclude, deduct, or
3 improperly report, in a manner directly contrary to the
4 provisions of the Act and regulations thereunder any
5 item of income, exemption, deduction, or credit.

6 (13) Nonbusiness income. The term "nonbusiness income"
7 means all income other than business income or
8 compensation.

9 (14) Nonresident. The term "nonresident" means a
10 person who is not a resident.

11 (15) Paid, incurred and accrued. The terms "paid",
12 "incurred" and "accrued" shall be construed according to
13 the method of accounting upon the basis of which the
14 person's base income is computed under this Act.

15 (16) Partnership and partner. The term "partnership"
16 includes a syndicate, group, pool, joint venture or other
17 unincorporated organization, through or by means of which
18 any business, financial operation, or venture is carried
19 on, and which is not, within the meaning of this Act, a
20 trust or estate or a corporation; and the term "partner"
21 includes a member in such syndicate, group, pool, joint
22 venture or organization.

23 The term "partnership" includes any entity, including
24 a limited liability company formed under the Illinois
25 Limited Liability Company Act, classified as a partnership
26 for federal income tax purposes.

27 The term "partnership" does not include a syndicate,
28 group, pool, joint venture, or other unincorporated
29 organization established for the sole purpose of playing
30 the Illinois State Lottery.

31 (17) Part-year resident. The term "part-year resident"
32 means an individual who became a resident during the
33 taxable year or ceased to be a resident during the taxable
34 year. Under Section 1501(a)(20)(A)(i) residence commences

1 with presence in this State for other than a temporary or
2 transitory purpose and ceases with absence from this State
3 for other than a temporary or transitory purpose. Under
4 Section 1501(a)(20)(A)(ii) residence commences with the
5 establishment of domicile in this State and ceases with the
6 establishment of domicile in another State.

7 (18) Person. The term "person" shall be construed to
8 mean and include an individual, a trust, estate,
9 partnership, association, firm, company, corporation,
10 limited liability company, or fiduciary. For purposes of
11 Section 1301 and 1302 of this Act, a "person" means (i) an
12 individual, (ii) a corporation, (iii) an officer, agent, or
13 employee of a corporation, (iv) a member, agent or employee
14 of a partnership, or (v) a member, manager, employee,
15 officer, director, or agent of a limited liability company
16 who in such capacity commits an offense specified in
17 Section 1301 and 1302.

18 (18A) Records. The term "records" includes all data
19 maintained by the taxpayer, whether on paper, microfilm,
20 microfiche, or any type of machine-sensible data
21 compilation.

22 (19) Regulations. The term "regulations" includes
23 rules promulgated and forms prescribed by the Department.

24 (20) Resident. The term "resident" means:

25 (A) an individual (i) who is in this State for
26 other than a temporary or transitory purpose during the
27 taxable year; or (ii) who is domiciled in this State
28 but is absent from the State for a temporary or
29 transitory purpose during the taxable year;

30 (B) The estate of a decedent who at his or her
31 death was domiciled in this State;

32 (C) A trust created by a will of a decedent who at
33 his death was domiciled in this State; and

34 (D) An irrevocable trust, the grantor of which was

1 domiciled in this State at the time such trust became
2 irrevocable. For purpose of this subparagraph, a trust
3 shall be considered irrevocable to the extent that the
4 grantor is not treated as the owner thereof under
5 Sections 671 through 678 of the Internal Revenue Code.

6 (21) Sales. The term "sales" means all gross receipts
7 of the taxpayer not allocated under Sections 301, 302 and
8 303.

9 (22) State. The term "state" when applied to a
10 jurisdiction other than this State means any state of the
11 United States, the District of Columbia, the Commonwealth
12 of Puerto Rico, any Territory or Possession of the United
13 States, and any foreign country, or any political
14 subdivision of any of the foregoing. For purposes of the
15 foreign tax credit under Section 601, the term "state"
16 means any state of the United States, the District of
17 Columbia, the Commonwealth of Puerto Rico, and any
18 territory or possession of the United States, or any
19 political subdivision of any of the foregoing, effective
20 for tax years ending on or after December 31, 1989.

21 (23) Taxable year. The term "taxable year" means the
22 calendar year, or the fiscal year ending during such
23 calendar year, upon the basis of which the base income is
24 computed under this Act. "Taxable year" means, in the case
25 of a return made for a fractional part of a year under the
26 provisions of this Act, the period for which such return is
27 made.

28 (24) Taxpayer. The term "taxpayer" means any person
29 subject to the tax imposed by this Act.

30 (25) International banking facility. The term
31 international banking facility shall have the same meaning
32 as is set forth in the Illinois Banking Act or as is set
33 forth in the laws of the United States or regulations of
34 the Board of Governors of the Federal Reserve System.

1 (26) Income Tax Return Preparer.

2 (A) The term "income tax return preparer" means any
3 person who prepares for compensation, or who employs
4 one or more persons to prepare for compensation, any
5 return of tax imposed by this Act or any claim for
6 refund of tax imposed by this Act. The preparation of a
7 substantial portion of a return or claim for refund
8 shall be treated as the preparation of that return or
9 claim for refund.

10 (B) A person is not an income tax return preparer
11 if all he or she does is

12 (i) furnish typing, reproducing, or other
13 mechanical assistance;

14 (ii) prepare returns or claims for refunds for
15 the employer by whom he or she is regularly and
16 continuously employed;

17 (iii) prepare as a fiduciary returns or claims
18 for refunds for any person; or

19 (iv) prepare claims for refunds for a taxpayer
20 in response to any notice of deficiency issued to
21 that taxpayer or in response to any waiver of
22 restriction after the commencement of an audit of
23 that taxpayer or of another taxpayer if a
24 determination in the audit of the other taxpayer
25 directly or indirectly affects the tax liability
26 of the taxpayer whose claims he or she is
27 preparing.

28 (27) Unitary business group. The term "unitary
29 business group" means a group of persons related through
30 common ownership whose business activities are integrated
31 with, dependent upon and contribute to each other. The
32 group will not include those members whose business
33 activity outside the United States is 80% or more of any
34 such member's total business activity; for purposes of this

1 paragraph and clause (a)(3)(B)(ii) of Section 304,
2 business activity within the United States shall be
3 measured by means of the factors ordinarily applicable
4 under subsections (a), (b), (c), (d), or (h) of Section 304
5 except that, in the case of members ordinarily required to
6 apportion business income by means of the 3 factor formula
7 of property, payroll and sales specified in subsection (a)
8 of Section 304, including the formula as weighted in
9 subsection (h) of Section 304, such members shall not use
10 the sales factor in the computation and the results of the
11 property and payroll factor computations of subsection (a)
12 of Section 304 shall be divided by 2 (by one if either the
13 property or payroll factor has a denominator of zero). The
14 computation required by the preceding sentence shall, in
15 each case, involve the division of the member's property,
16 payroll, or revenue miles in the United States, insurance
17 premiums on property or risk in the United States, or
18 financial organization business income from sources within
19 the United States, as the case may be, by the respective
20 worldwide figures for such items. Common ownership in the
21 case of corporations is the direct or indirect control or
22 ownership of more than 50% of the outstanding voting stock
23 of the persons carrying on unitary business activity.
24 Unitary business activity can ordinarily be illustrated
25 where the activities of the members are: (1) in the same
26 general line (such as manufacturing, wholesaling,
27 retailing of tangible personal property, insurance,
28 transportation or finance); or (2) are steps in a
29 vertically structured enterprise or process (such as the
30 steps involved in the production of natural resources,
31 which might include exploration, mining, refining, and
32 marketing); and, in either instance, the members are
33 functionally integrated through the exercise of strong
34 centralized management (where, for example, authority over

1 such matters as purchasing, financing, tax compliance,
2 product line, personnel, marketing and capital investment
3 is not left to each member). In no event, however, will any
4 unitary business group include members which are
5 ordinarily required to apportion business income under
6 different subsections of Section 304 except that for tax
7 years ending on or after December 31, 1987 this prohibition
8 shall not apply to a unitary business group composed of one
9 or more taxpayers all of which apportion business income
10 pursuant to subsection (b) of Section 304, or all of which
11 apportion business income pursuant to subsection (d) of
12 Section 304, and a holding company of such single-factor
13 taxpayers (see definition of "financial organization" for
14 rule regarding holding companies of financial
15 organizations). If a unitary business group would, but for
16 the preceding sentence, include members that are
17 ordinarily required to apportion business income under
18 different subsections of Section 304, then for each
19 subsection of Section 304 for which there are two or more
20 members, there shall be a separate unitary business group
21 composed of such members. For purposes of the preceding two
22 sentences, a member is "ordinarily required to apportion
23 business income" under a particular subsection of Section
24 304 if it would be required to use the apportionment method
25 prescribed by such subsection except for the fact that it
26 derives business income solely from Illinois. As used in
27 this paragraph, the phrase "United States" means only the
28 50 states and the District of Columbia, but does not
29 include any territory or possession of the United States or
30 any area over which the United States has asserted
31 jurisdiction or claimed exclusive rights with respect to
32 the exploration for or exploitation of natural resources.

33 If the unitary business group members' accounting
34 periods differ, the common parent's accounting period or,

1 if there is no common parent, the accounting period of the
2 member that is expected to have, on a recurring basis, the
3 greatest Illinois income tax liability must be used to
4 determine whether to use the apportionment method provided
5 in subsection (a) or subsection (h) of Section 304. The
6 prohibition against membership in a unitary business group
7 for taxpayers ordinarily required to apportion income
8 under different subsections of Section 304 does not apply
9 to taxpayers required to apportion income under subsection
10 (a) and subsection (h) of Section 304. The provisions of
11 this amendatory Act of 1998 apply to tax years ending on or
12 after December 31, 1998.

13 (28) Subchapter S corporation. The term "Subchapter S
14 corporation" means a corporation for which there is in
15 effect an election under Section 1362 of the Internal
16 Revenue Code, or for which there is a federal election to
17 opt out of the provisions of the Subchapter S Revision Act
18 of 1982 and have applied instead the prior federal
19 Subchapter S rules as in effect on July 1, 1982.

20 (30) Foreign person. The term "foreign person" means
21 any person who is a nonresident alien individual and any
22 nonindividual entity, regardless of where created or
23 organized, whose business activity outside the United
24 States is 80% or more of the entity's total business
25 activity.

26 (31) Sport utility vehicle. The term "sport utility
27 vehicle" means a four-wheeled vehicle manufactured
28 primarily for use on public streets, roads, and highways
29 that:

30 (A) is rated between 6,000 and 14,000 pounds gross
31 vehicle weight;

32 (B) is designed to seat 9 or fewer individuals; and

33 (C) is not equipped with an open cargo area with an
34 interior length of 72 or more inches that is separate

1 from the passenger compartment.

2 (b) Other definitions.

3 (1) Words denoting number, gender, and so forth, when
4 used in this Act, where not otherwise distinctly expressed
5 or manifestly incompatible with the intent thereof:

6 (A) Words importing the singular include and apply
7 to several persons, parties or things;

8 (B) Words importing the plural include the
9 singular; and

10 (C) Words importing the masculine gender include
11 the feminine as well.

12 (2) "Company" or "association" as including successors
13 and assigns. The word "company" or "association", when used
14 in reference to a corporation, shall be deemed to embrace
15 the words "successors and assigns of such company or
16 association", and in like manner as if these last-named
17 words, or words of similar import, were expressed.

18 (3) Other terms. Any term used in any Section of this
19 Act with respect to the application of, or in connection
20 with, the provisions of any other Section of this Act shall
21 have the same meaning as in such other Section.

22 (Source: P.A. 92-846, eff. 8-23-02; 93-840, eff. 7-30-04.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law."