



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0580

Introduced 2/5/2007, by Rep. Patricia R. Bellock

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/203

from Ch. 120, par. 2-203

Creates the Health Savings Account Act and amends the Illinois Income Tax Act. Provides that, beginning in taxable year 2008, a resident of Illinois or an employer may deposit contributions, subject to certain limitations, into a health savings account. Provides that the principal contributed to and the interest earned on a health savings account and money reimbursed to an eligible individual or an employee for qualified medical expenses is exempt from the Illinois income tax. Sets forth restriction on the use of funds held in a health savings account. Provides that an eligible individual may withdraw money from his or her health savings account for any purpose, but provides that certain withdrawals are not tax exempt. Repeals the Health Savings Account Act on June 30, 2018. Effective July 1, 2007.

LRB095 03893 BDD 23926 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 1. Short title. This Act may be cited as the Health
5 Savings Account Act.

6 Section 5. Definitions. As used in this Act:

7 (a) "Eligible individual" means an individual, including
8 employees of an employer who contributes to health savings
9 accounts on the employees' behalf, who:

10 (1) is covered by a "high deductible health plan"
11 individually or with dependents; and

12 (2) is not covered under any health plan that is not a
13 high deductible health plan, except for:

14 (i) coverage for accidents;

15 (ii) workers' compensation insurance;

16 (iii) insurance for a specified disease or
17 illness;

18 (iv) insurance paying a fixed amount per day per
19 hospitalization; and

20 (v) tort liabilities; and

21 (3) establishes a health savings account or on whose
22 behalf the health savings account is established.

23 (b) "Deductible" means the total deductible of a high

1 deductible health plan for an eligible individual and all the
2 dependents of that eligible individual for a calendar year.

3 (c) "Dependent" means an eligible individual's spouse or
4 child, as defined in Section 152 of the Internal Revenue Code
5 of 1986.

6 (d) "Qualified medical expense" means an expense paid by
7 the eligible individual for medical care described in Section
8 213(d) of the Internal Revenue Code of 1986.

9 (e) "High deductible" means:

10 (1) In the case of self-only coverage, an annual
11 deductible that is not less than \$1,000 and that, when
12 added to the other annual out-of-pocket expenses required
13 to be paid under the plan for covered benefits, does not
14 exceed \$5,000; and

15 (2) In the case of family coverage, an annual
16 deductible of not less than \$2,000 and that, when added to
17 the other annual out-of-pocket expenses required to be paid
18 under the plan for covered benefits, does not exceed
19 \$10,000.

20 A plan shall not fail to be treated as a high deductible
21 plan by reason of a failure to have a deductible for preventive
22 care or, in the case of network plans, for having out-of-pocket
23 expenses that exceed these limits on an annual deductible for
24 services that are provided outside the network.

25 (f) "Health savings account" or "account" means a trust or
26 custodial account established under a State program

1 exclusively to pay the qualified medical expenses of an
2 eligible individual, or his or her dependents, that meets the
3 all of the following requirements:

4 (1) Except in the case of a rollover contribution, no
5 contribution may be accepted:

6 (A) unless it is in cash; or

7 (B) to the extent that the contribution, when added
8 to the previous contributions to the Account for the
9 calendar year, exceeds the lesser of (i) 100% of the
10 eligible individual's deductible or (ii) \$2,600 for an
11 individual or \$5,150 per family. Beginning in taxable
12 year 2009, the amounts set forth in item (ii) of this
13 subparagraph (B) are subject to annual adjustments
14 equal to the percentage of increase in the previous
15 calendar year in the Consumer Price Index for all Urban
16 Consumers for all items published by the federal Bureau
17 of Labor Statistics.

18 (2) The trustee or custodian is a bank, an insurance
19 company, or another person approved by the Secretary of
20 Human Services.

21 (3) No part of the trust assets will be invested in
22 life insurance contracts.

23 (4) The assets of the account will not be commingled
24 with other property except as allowed for under Individual
25 Retirement Accounts.

26 (5) Eligible individual's interest in the account is

1 nonforfeitable.

2 (g) "Health Savings Account program" or "program" means a
3 program that includes all of the following:

4 (1) The purchase by an eligible individual or by an
5 employer of a high deductible health plan.

6 (2) The contribution into a health savings account by
7 an eligible individual or on behalf of an employee or by
8 his or her employer. The total annual contribution may not
9 exceed the amount of the deductible or the amounts listed
10 in item (1)(B) of subsection (f) of this Section.

11 (h) "High Deductible Health Plan" means a health coverage
12 policy, certificate, or contract that provides for payments for
13 covered benefits that exceed the high deductible.

14 Section 10. Application; authorized contributions; tax
15 exemption.

16 (a) This Act applies regardless of whether the taxpayer
17 receives preferred federal tax treatment for a health savings
18 account under Section 223 of the Internal Revenue Code of 1986.

19 (b) Beginning in taxable year 2008, a resident of Illinois
20 or an employer may deposit contributions into a health savings
21 account. The amount of deposit for 2008 may not exceed the
22 lesser of (i) the amount of the deductible or (ii) \$2,600 for
23 an individual policy and \$5,150 for a family policy.

24 (c) Except as provided in Section 20, the principal
25 contributed to and the interest earned on a health savings

1 account and money reimbursed to an eligible individual or an
2 employee for qualified medical expenses is exempt from taxation
3 under the Illinois Income Tax Act.

4 Section 15. Use of funds.

5 (a) The trustee or custodian must use the funds held in a
6 health savings account solely (i) for the purpose of paying the
7 qualified medical expenses of the eligible individual or his or
8 her dependents, (ii) to purchase a health coverage policy
9 certificate, or contract, if the eligible individual is
10 receiving unemployment compensation, is exercising
11 continuation privileges under federal law, or is purchasing a
12 long term care insurance contract, or (iii) to pay for health
13 insurance other than a Medicare supplemental policy for those
14 who are Medicare eligible.

15 (b) Funds held in a health savings account may not be used
16 to cover expenses of the eligible individual or his or her
17 dependents that are otherwise covered, including but not
18 limited to, medical expense covered under an automobile
19 insurance policy, worker's compensation insurance policy or
20 self-insured plan, or another employer-funded health coverage
21 policy, certificate, or contract.

22 Section 20. Withdrawals.

23 (a) An eligible individual may withdraw money from his or
24 her health savings account for any purpose.

1 (b) Except as otherwise provided in this Section, if the
2 eligible individual withdraws money for any purpose other than
3 a purpose described in subsection (a) of Section 15, all of the
4 following apply:

5 (1) the amount of the withdrawal is income for the
6 purposes of the Illinois Income Tax Act in the tax year of
7 the withdrawal; and

8 (2) interest earned on the amount withdrawn from the
9 account during the tax year in which a withdrawal under
10 this subsection is made is income for the purposes of the
11 Illinois Income Tax Act.

12 (c) The amount of disbursement of any assets of a health
13 savings account under a filing for bankruptcy protection under
14 Title 11 of the United States Code by an eligible individual or
15 person for whose benefit the account was established is not
16 considered a withdrawal for purposes of this Section, and the
17 amount of the disbursement is not subject to taxation under the
18 Illinois Income Tax Act, and subsection (b) does not apply.

19 (d) The transfer of an eligible individual's interest in a
20 health savings account to that eligible individual's spouse, or
21 former spouse under a divorce or separation instrument, is not
22 considered to be a taxable transfer made by the eligible
23 individual, and, after the transfer, the interest shall be
24 treated as a health savings account with the spouse as the
25 eligible individual. The amount of the transfer is not subject
26 to taxation under the Illinois Income Tax Act, and subsection

1 (b) does not apply.

2 (e) Upon the death of the eligible individual, the trustee
3 or custodian must distribute the principle and accumulated
4 interest of the health savings account to the estate of the
5 deceased. The amount of the distribution is not subject to
6 taxation under the Illinois Income Tax Act, and subsection (b)
7 does not apply.

8 (f) If an employee becomes employed with a different
9 employer that participates in a health savings account program,
10 the employee may transfer his or her health savings account to
11 that new employer's trustee or custodian or to an individually
12 purchased account program. The amount of the transfer is not
13 subject to taxation under the Illinois Income Tax Act, and
14 subsection (b) does not apply.

15 Section 25. Repeal. This Act is repealed on June 30, 2018.

16 Section 990. The Illinois Income Tax Act is amended by
17 changing Section 203 as follows:

18 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

19 Sec. 203. Base income defined.

20 (a) Individuals.

21 (1) In general. In the case of an individual, base
22 income means an amount equal to the taxpayer's adjusted
23 gross income for the taxable year as modified by paragraph

1 (2).

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

5 (A) An amount equal to all amounts paid or accrued
6 to the taxpayer as interest or dividends during the
7 taxable year to the extent excluded from gross income
8 in the computation of adjusted gross income, except
9 stock dividends of qualified public utilities
10 described in Section 305(e) of the Internal Revenue
11 Code;

12 (B) An amount equal to the amount of tax imposed by
13 this Act to the extent deducted from gross income in
14 the computation of adjusted gross income for the
15 taxable year;

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

1 which is attributable to such principal residence;

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

6 (D-5) An amount, to the extent not included in
7 adjusted gross income, equal to the amount of money
8 withdrawn by the taxpayer in the taxable year from a
9 medical care savings account and the interest earned on
10 the account in the taxable year of a withdrawal
11 pursuant to subsection (b) of Section 20 of the Medical
12 Care Savings Account Act or subsection (b) of Section
13 20 of the Medical Care Savings Account Act of 2000;

14 (D-10) For taxable years ending after December 31,
15 1997, an amount equal to any eligible remediation costs
16 that the individual deducted in computing adjusted
17 gross income and for which the individual claims a
18 credit under subsection (l) of Section 201;

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

24 (D-16) If the taxpayer sells, transfers, abandons,
25 or otherwise disposes of property for which the
26 taxpayer was required in any taxable year to make an

1 addition modification under subparagraph (D-15), then
2 an amount equal to the aggregate amount of the
3 deductions taken in all taxable years under
4 subparagraph (Z) with respect to that property.

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

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

15 (D-17) For taxable years ending on or after
16 December 31, 2004, an amount equal to the amount
17 otherwise allowed as a deduction in computing base
18 income for interest paid, accrued, or incurred,
19 directly or indirectly, to a foreign person who would
20 be a member of the same unitary business group but for
21 the fact that foreign person's business activity
22 outside the United States is 80% or more of the foreign
23 person's total business activity. The addition
24 modification required by this subparagraph shall be
25 reduced to the extent that dividends were included in
26 base income of the unitary group for the same taxable

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

8 This paragraph shall not apply to the following:

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

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

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

24 (b) the transaction giving rise to the
25 interest expense between the taxpayer and the
26 foreign person did not have as a principal

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

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

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

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

1 under Section 404 of this Act;

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

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

14 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

4 (D-20) For taxable years beginning on or after
5 January 1, 2002, in the case of a distribution from a
6 qualified tuition program under Section 529 of the
7 Internal Revenue Code, other than (i) a distribution
8 from a College Savings Pool created under Section 16.5
9 of the State Treasurer Act or (ii) a distribution from
10 the Illinois Prepaid Tuition Trust Fund, an amount
11 equal to the amount excluded from gross income under
12 Section 529(c)(3)(B);

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

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

1 United States Code as a member of the Illinois National
2 Guard. 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;

1 (G) The valuation limitation amount;

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

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

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

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

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

3 (L) For taxable years ending after December 31,
4 1983, an amount equal to all social security benefits
5 and railroad retirement benefits included in such
6 total pursuant to Sections 72(r) and 86 of the Internal
7 Revenue Code;

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

21 (N) An amount equal to all amounts included in such
22 total which are exempt from taxation by this State
23 either by reason of its statutes or Constitution or by
24 reason of the Constitution, treaties or statutes of the
25 United States; provided that, in the case of any
26 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 (O) An amount equal to any contribution made to a
5 job training project established pursuant to the Tax
6 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

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

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

15 (W) For taxable years beginning on or after January
16 1, 1998, all amounts included in the taxpayer's federal
17 gross income in the taxable year from amounts converted
18 from a regular IRA to a Roth IRA. This paragraph is
19 exempt from the provisions of Section 250;

20 (X) For taxable year 1999 and thereafter, an amount
21 equal to the amount of any (i) distributions, to the
22 extent includible in gross income for federal income
23 tax purposes, made to the taxpayer because of his or
24 her status as a victim of persecution for racial or
25 religious reasons by Nazi Germany or any other Axis
26 regime or as an heir of the victim and (ii) items of

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

1 (Y) For taxable years beginning on or after January
2 1, 2002 and ending on or before December 31, 2004,
3 moneys contributed in the taxable year to a College
4 Savings Pool account under Section 16.5 of the State
5 Treasurer Act, except that amounts excluded from gross
6 income under Section 529(c)(3)(C)(i) of the Internal
7 Revenue Code shall not be considered moneys
8 contributed under this subparagraph (Y). For taxable
9 years beginning on or after January 1, 2005, a maximum
10 of \$10,000 contributed in the taxable year to (i) a
11 College Savings Pool account under Section 16.5 of the
12 State Treasurer Act or (ii) the Illinois Prepaid
13 Tuition Trust Fund, except that amounts excluded from
14 gross income under Section 529(c)(3)(C)(i) of the
15 Internal Revenue Code shall not be considered moneys
16 contributed under this subparagraph (Y). This
17 subparagraph (Y) is exempt from the provisions of
18 Section 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (EE) An amount equal to the income from intangible
26 property taken into account for the taxable year (net

1 of the deductions allocable thereto) with respect to
2 transactions with a foreign person who would be a
3 member of the taxpayer's unitary business group but for
4 the fact that the foreign person's business activity
5 outside the United States is 80% or more of that
6 person's total business activity, but not to exceed the
7 addition modification required to be made for the same
8 taxable year under Section 203(a)(2)(D-18) for
9 intangible expenses and costs paid, accrued, or
10 incurred, directly or indirectly, to the same foreign
11 person; and ~~—~~

12 (FF) For taxable years ending after December 31,
13 2008 and on or before December 30, 2018, all amounts
14 included in the taxpayer's federal gross income in the
15 taxable year consisting of (i) the principal
16 contributed to and the interest earned on a health
17 savings account and (ii) money reimbursed to an
18 eligible individual or an employee from a health
19 savings account for qualified medical expenses under
20 the Health Savings Account Act.

21 (b) Corporations.

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

25 (2) Modifications. The taxable income referred to in

1 paragraph (1) shall be modified by adding thereto the sum
2 of the following amounts:

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

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

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

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

25 (E) For taxable years in which a net operating loss
26 carryback or carryforward from a taxable year ending

1 prior to December 31, 1986 is an element of taxable
2 income under paragraph (1) of subsection (e) or
3 subparagraph (E) of paragraph (2) of subsection (e),
4 the amount by which addition modifications other than
5 those provided by this subparagraph (E) exceeded
6 subtraction modifications in such earlier taxable
7 year, with the following limitations applied in the
8 order that they are listed:

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

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

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

1 independently under the preceding provisions of this
2 subparagraph (E) for each such taxable year;

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

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

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

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

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

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

24 This paragraph shall not apply to the following:

25 (i) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a foreign

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

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

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

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

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

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

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

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

4 This paragraph shall not apply to the following:

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

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

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

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

1 or

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

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

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

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

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

1 (H) In the case of a regulated investment company,
2 an amount equal to the amount of exempt interest
3 dividends as defined in subsection (b) (5) of Section
4 852 of the Internal Revenue Code, paid to shareholders
5 for the taxable year;

6 (I) With the exception of any amounts subtracted
7 under subparagraph (J), an amount equal to the sum of
8 all amounts disallowed as deductions by (i) Sections
9 171(a) (2), and 265(a)(2) and amounts disallowed as
10 interest expense by Section 291(a)(3) of the Internal
11 Revenue Code, as now or hereafter amended, and all
12 amounts of expenses allocable to interest and
13 disallowed as deductions by Section 265(a)(1) of the
14 Internal Revenue Code, as now or hereafter amended; and
15 (ii) for taxable years ending on or after August 13,
16 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
17 832(b)(5)(B)(i) of the Internal Revenue Code; the
18 provisions of this subparagraph are exempt from the
19 provisions of Section 250;

20 (J) An amount equal to all amounts included in such
21 total which are exempt from taxation by this State
22 either by reason of its statutes or Constitution or by
23 reason of the Constitution, treaties or statutes of the
24 United States; provided that, in the case of any
25 statute of this State that exempts income derived from
26 bonds or other obligations from the tax imposed under

1 this Act, the amount exempted shall be the interest net
2 of bond premium amortization;

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

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

22 (M) For any taxpayer that is a financial
23 organization within the meaning of Section 304(c) of
24 this Act, an amount included in such total as interest
25 income from a loan or loans made by such taxpayer to a
26 borrower, to the extent that such a loan is secured by

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

20 (M-1) For any taxpayer that is a financial
21 organization within the meaning of Section 304(c) of
22 this Act, an amount included in such total as interest
23 income from a loan or loans made by such taxpayer to a
24 borrower, to the extent that such a loan is secured by
25 property which is eligible for the High Impact Business
26 Investment Credit. To determine the portion of a loan

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

19 (N) Two times any contribution made during the
20 taxable year to a designated zone organization to the
21 extent that the contribution (i) qualifies as a
22 charitable contribution under subsection (c) of
23 Section 170 of the Internal Revenue Code and (ii) must,
24 by its terms, be used for a project approved by the
25 Department of Commerce and Economic Opportunity under
26 Section 11 of the Illinois Enterprise Zone Act or under

1 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment
2 Zone Act. This subparagraph (N) is exempt from the
3 provisions of Section 250;

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

1 a member of the affiliated group which includes the
2 dividend recipient, exceed the amount of the
3 modification provided under subparagraph (G) of
4 paragraph (2) of this subsection (b) which is related
5 to such dividends;

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

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

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

1 (S) For taxable years ending on or after December
2 31, 1997, in the case of a Subchapter S corporation, an
3 amount equal to all amounts of income allocable to a
4 shareholder subject to the Personal Property Tax
5 Replacement Income Tax imposed by subsections (c) and
6 (d) of Section 201 of this Act, including amounts
7 allocable to organizations exempt from federal income
8 tax by reason of Section 501(a) of the Internal Revenue
9 Code. This subparagraph (S) is exempt from the
10 provisions of Section 250;

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

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

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

1 0.429); and

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

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

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

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

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

26 If the taxpayer continues to own property through

1 the last day of the last tax year for which the
2 taxpayer may claim a depreciation deduction for
3 federal income tax purposes and for which the taxpayer
4 was required in any taxable year to make an addition
5 modification under subparagraph (E-10), then an amount
6 equal to that addition modification.

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

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

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

1 addition modification;

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

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

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

5 (c) Trusts and estates.

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

9 (2) Modifications. Subject to the provisions of
10 paragraph (3), the taxable income referred to in paragraph
11 (1) shall be modified by adding thereto the sum of the
12 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) In the case of (i) an estate, \$600; (ii) a
18 trust which, under its governing instrument, is
19 required to distribute all of its income currently,
20 \$300; and (iii) any other trust, \$100, but in each such
21 case, only to the extent such amount was deducted in
22 the computation of taxable income;

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

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

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

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

23 (ii) the addition modification relating to the
24 net operating loss carried back or forward to the
25 taxable year from any taxable year ending prior to
26 December 31, 1986 shall not exceed the amount of

1 such carryback or carryforward;

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

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

15 (G) 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 taxable income;

19 (G-5) For taxable years ending after December 31,
20 1997, an amount equal to any eligible remediation costs
21 that the trust or estate deducted in computing adjusted
22 gross income and for which the trust or estate claims a
23 credit under subsection (1) of Section 201;

24 (G-10) For taxable years 2001 and thereafter, an
25 amount equal to the bonus depreciation deduction taken
26 on the taxpayer's federal income tax return for the

1 taxable year under subsection (k) of Section 168 of the
2 Internal Revenue Code; and

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

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

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

20 (G-12) For taxable years ending on or after
21 December 31, 2004, an amount equal to the amount
22 otherwise allowed as a deduction in computing base
23 income for interest paid, accrued, or incurred,
24 directly or indirectly, to a foreign person who would
25 be a member of the same unitary business group but for
26 the fact that the foreign person's business activity

1 outside the United States is 80% or more of the foreign
2 person's total business activity. The addition
3 modification required by this subparagraph shall be
4 reduced to the extent that dividends were included in
5 base income of the unitary group for the same taxable
6 year and received by the taxpayer or by a member of the
7 taxpayer's unitary business group (including amounts
8 included in gross income pursuant to Sections 951
9 through 964 of the Internal Revenue Code and amounts
10 included in gross income under Section 78 of the
11 Internal Revenue Code) with respect to the stock of the
12 same person to whom the interest was paid, accrued, or
13 incurred.

14 This paragraph shall not apply to the following:

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

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

26 (a) the foreign person, during the same

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

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

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

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

25 Nothing in this subsection shall preclude the
26 Director from making any other adjustment

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

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

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

20 This paragraph shall not apply to the following:

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

1 income with respect to such item; or

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

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

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

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

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

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

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

23 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

26 (Q) For taxable year 1999 and thereafter, an amount

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

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

7 (R) For taxable years 2001 and thereafter, for the
8 taxable year in which the bonus depreciation deduction
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 was
17 taken in any year under subsection (k) of Section
18 168 of the Internal Revenue Code, but not including
19 the bonus depreciation deduction;

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

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

26 (i) for property on which a bonus

1 depreciation deduction of 30% of the adjusted
2 basis was taken, "x" equals "y" multiplied by
3 30 and then divided by 70 (or "y" multiplied by
4 0.429); and

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

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 taken on that property on the
13 taxpayer's federal income tax return under subsection
14 (k) of Section 168 of the Internal Revenue Code. This
15 subparagraph (R) is exempt from the provisions of
16 Section 250;

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

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

1 modification under subparagraph (G-10), then an amount
2 equal to that addition 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 This subparagraph (S) is exempt from the
7 provisions of Section 250;

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

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

1 transactions with a foreign person who would be a
2 member of the taxpayer's unitary business group but for
3 the fact 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-12) for
8 interest paid, accrued, or incurred, directly or
9 indirectly, to the same foreign person; and

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

23 (3) Limitation. The amount of any modification
24 otherwise required under this subsection shall, under
25 regulations prescribed by the Department, be adjusted by
26 any amounts included therein which were properly paid,

1 credited, or required to be distributed, or permanently set
2 aside for charitable purposes pursuant to Internal Revenue
3 Code Section 642(c) during the taxable year.

4 (d) Partnerships.

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

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

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

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

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

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

25 (D-5) For taxable years 2001 and thereafter, an

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

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

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

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

22 (D-7) For taxable years ending on or after December
23 31, 2004, an amount equal to the amount otherwise
24 allowed as a deduction in computing base income for
25 interest paid, accrued, or incurred, directly or
26 indirectly, to a foreign person who would be a member

1 of the same unitary business group but for the fact the
2 foreign person's business activity outside the United
3 States is 80% or more of the foreign person's total
4 business activity. The addition modification required
5 by this subparagraph shall be reduced to the extent
6 that dividends were included in base income of the
7 unitary group for the same taxable year and received by
8 the taxpayer or by a member of the taxpayer's unitary
9 business group (including amounts included in gross
10 income pursuant to Sections 951 through 964 of the
11 Internal Revenue Code and amounts included in gross
12 income under Section 78 of the Internal Revenue Code)
13 with respect to the stock of the same person to whom
14 the interest was paid, accrued, or incurred.

15 This paragraph shall not apply to the following:

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

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

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

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

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

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

26 Nothing in this subsection shall preclude the

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

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

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

21 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

13 (E) The valuation limitation amount;

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

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

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

7 (I) An amount equal to all amounts of income
8 distributable to an entity subject to the Personal
9 Property Tax Replacement Income Tax imposed by
10 subsections (c) and (d) of Section 201 of this Act
11 including amounts distributable to organizations
12 exempt from federal income tax by reason of Section
13 501(a) of the Internal Revenue Code;

14 (J) With the exception of any amounts subtracted
15 under subparagraph (G), an amount equal to the sum of
16 all amounts disallowed as deductions by (i) Sections
17 171(a) (2), and 265(2) of the Internal Revenue Code of
18 1954, as now or hereafter amended, and all amounts of
19 expenses allocable to interest and disallowed as
20 deductions by Section 265(1) of the Internal Revenue
21 Code, as now or hereafter amended; and (ii) for taxable
22 years ending on or after August 13, 1999, Sections
23 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
24 Internal Revenue Code; the provisions of this
25 subparagraph are exempt from the provisions of Section
26 250;

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

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

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

24 (N) An amount equal to the amount of the deduction
25 used to compute the federal income tax credit for
26 restoration of substantial amounts held under claim of

1 right for the taxable year pursuant to Section 1341 of
2 the Internal Revenue Code of 1986;

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

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

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

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

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

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

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

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

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

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

1 piece of property.

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

4 (Q) 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 (R) 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 that the foreign person's business activity
26 outside the United States is 80% or more of that

1 person's total business activity, but not to exceed the
2 addition modification required to be made for the same
3 taxable year under Section 203(d)(2)(D-7) for interest
4 paid, accrued, or incurred, directly or indirectly, to
5 the same foreign person; and

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

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

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

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

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

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

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

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

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

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

1 taxable years.

2 (f) Valuation limitation amount.

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

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

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

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

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

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

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

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

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

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

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

7 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;
8 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.
9 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

10 Section 997. Severability. The provisions of this Act are
11 severable under Section 1.31 of the Statute on Statutes.

12 Section 999. Effective date. This Act takes effect July 1,
13 2007.