



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5237

Introduced 2/3/2010, 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 2011, 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 January 1, 2022. Effective July 1, 2010.

LRB096 18847 HLH 34233 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 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 2010, 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 2011, a resident of Illinois  
20 or an employer may deposit contributions into a health savings  
21 account. The amount of deposit for 2011 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 January 1,  
16 2022.

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

19 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

20 Sec. 203. Base income defined.

21 (a) Individuals.

22 (1) In general. In the case of an individual, base  
23 income means an amount equal to the taxpayer's adjusted



1 gross income for the taxable year as modified by paragraph  
2 (2).

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

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

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

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

1           portion of the total taxes for the entire property  
2           which is attributable to such principal residence;

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

7           (D-5) An amount, to the extent not included in  
8           adjusted gross income, equal to the amount of money  
9           withdrawn by the taxpayer in the taxable year from a  
10          medical care savings account and the interest earned on  
11          the account in the taxable year of a withdrawal  
12          pursuant to subsection (b) of Section 20 of the Medical  
13          Care Savings Account Act or subsection (b) of Section  
14          20 of the Medical Care Savings Account Act of 2000;

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

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

25          (D-16) If the taxpayer sells, transfers, abandons,  
26          or otherwise disposes of property for which the

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

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

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

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

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

16 This paragraph shall not apply to the following:

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

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

1 following:

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

5 (b) the transaction giving rise to the  
6 interest expense between the taxpayer and the  
7 person did not have as a principal purpose the  
8 avoidance of Illinois income tax, and is paid  
9 pursuant to a contract or agreement that  
10 reflects an arm's-length interest rate and  
11 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 person if  
20 the taxpayer establishes by clear and convincing  
21 evidence that the adjustments are unreasonable; or  
22 if the taxpayer and the Director agree in writing  
23 to the application or use of an alternative method  
24 of apportionment under Section 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 (D-18) An amount equal to the amount of intangible  
9 expenses and costs otherwise allowed as a deduction in  
10 computing base income, and that were paid, accrued, or  
11 incurred, directly or indirectly, (i) for taxable  
12 years ending on or after December 31, 2004, 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 and (ii) for taxable years ending on or after  
18 December 31, 2008, to a person who would be a member of  
19 the same unitary business group but for the fact that  
20 the person is prohibited under Section 1501(a)(27)  
21 from being included in the unitary business group  
22 because he or she is ordinarily required to apportion  
23 business income under different subsections of Section  
24 304. The addition modification required by this  
25 subparagraph shall be reduced to the extent that  
26 dividends were included in base income of the unitary

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

1 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) any item of intangible expense or cost  
26 paid, accrued, or incurred, directly or



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

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

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

1 addition modification required by this subparagraph  
2 shall be reduced to the extent that dividends were  
3 included in base income of the unitary group for the  
4 same taxable year and received by the taxpayer or by a  
5 member of the taxpayer's unitary business group  
6 (including amounts included in gross income under  
7 Sections 951 through 964 of the Internal Revenue Code  
8 and amounts included in gross income under Section 78  
9 of the Internal Revenue Code) with respect to the stock  
10 of the same person to whom the premiums and costs were  
11 directly or indirectly paid, incurred, or accrued. The  
12 preceding sentence does not apply to the extent that  
13 the same dividends caused a reduction to the addition  
14 modification required under Section 203(a)(2)(D-17) or  
15 Section 203(a)(2)(D-18) of this Act.

16 (D-20) For taxable years beginning on or after  
17 January 1, 2002 and ending on or before December 31,  
18 2006, in the case of a distribution from a qualified  
19 tuition program under Section 529 of the Internal  
20 Revenue Code, other than (i) a distribution from a  
21 College Savings Pool created under Section 16.5 of the  
22 State Treasurer Act or (ii) a distribution from the  
23 Illinois Prepaid Tuition Trust Fund, an amount equal to  
24 the amount excluded from gross income under Section  
25 529(c)(3)(B). For taxable years beginning on or after  
26 January 1, 2007, in the case of a distribution from a

1 qualified tuition program under Section 529 of the  
2 Internal Revenue Code, other than (i) a distribution  
3 from a College Savings Pool created under Section 16.5  
4 of the State Treasurer Act, (ii) a distribution from  
5 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
6 distribution from a qualified tuition program under  
7 Section 529 of the Internal Revenue Code that (I)  
8 adopts and determines that its offering materials  
9 comply with the College Savings Plans Network's  
10 disclosure principles and (II) has made reasonable  
11 efforts to inform in-state residents of the existence  
12 of in-state qualified tuition programs by informing  
13 Illinois residents directly and, where applicable, to  
14 inform financial intermediaries distributing the  
15 program to inform in-state residents of the existence  
16 of in-state qualified tuition programs at least  
17 annually, an amount equal to the amount excluded from  
18 gross income under Section 529(c)(3)(B).

19 For the purposes of this subparagraph (D-20), a  
20 qualified tuition program has made reasonable efforts  
21 if it makes disclosures (which may use the term  
22 "in-state program" or "in-state plan" and need not  
23 specifically refer to Illinois or its qualified  
24 programs by name) (i) directly to prospective  
25 participants in its offering materials or makes a  
26 public disclosure, such as a website posting; and (ii)

1           where applicable, to intermediaries selling the  
2           out-of-state program in the same manner that the  
3           out-of-state program distributes its offering  
4           materials;

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

12          (D-22) For taxable years beginning on or after  
13          January 1, 2009, in the case of a nonqualified  
14          withdrawal or refund of moneys from a qualified tuition  
15          program under Section 529 of the Internal Revenue Code  
16          administered by the State that is not used for  
17          qualified expenses at an eligible education  
18          institution, an amount equal to the contribution  
19          component of the nonqualified withdrawal or refund  
20          that was previously deducted from base income under  
21          subsection (a) (2) (y) of this Section, provided that  
22          the withdrawal or refund did not result from the  
23          beneficiary's death or disability;

24          (D-23) An amount equal to the credit allowable to  
25          the taxpayer under Section 218(a) of this Act,  
26          determined without regard to Section 218(c) of this

1 Act;

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

4 (E) For taxable years ending before December 31,  
5 2001, any amount included in such total in respect of  
6 any compensation (including but not limited to any  
7 compensation paid or accrued to a serviceman while a  
8 prisoner of war or missing in action) paid to a  
9 resident by reason of being on active duty in the Armed  
10 Forces of the United States and in respect of any  
11 compensation paid or accrued to a resident who as a  
12 governmental employee was a prisoner of war or missing  
13 in action, and in respect of any compensation paid to a  
14 resident in 1971 or thereafter for annual training  
15 performed pursuant to Sections 502 and 503, Title 32,  
16 United States Code as a member of the Illinois National  
17 Guard or, beginning with taxable years ending on or  
18 after December 31, 2007, the National Guard of any  
19 other state. For taxable years ending on or after  
20 December 31, 2001, any amount included in such total in  
21 respect of any compensation (including but not limited  
22 to any compensation paid or accrued to a serviceman  
23 while a prisoner of war or missing in action) paid to a  
24 resident by reason of being a member of any component  
25 of the Armed Forces of the United States and in respect  
26 of any compensation paid or accrued to a resident who

1 as a governmental employee was a prisoner of war or  
2 missing in action, and in respect of any compensation  
3 paid to a resident in 2001 or thereafter by reason of  
4 being a member of the Illinois National Guard or,  
5 beginning with taxable years ending on or after  
6 December 31, 2007, the National Guard of any other  
7 state. The provisions of this amendatory Act of the  
8 92nd General Assembly are exempt from the provisions of  
9 Section 250;

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

21 (G) The valuation limitation amount;

22 (H) 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 (I) An amount equal to all amounts included in such  
26 total pursuant to the provisions of Section 111 of the

1 Internal Revenue Code as a recovery of items previously  
2 deducted from adjusted gross income in the computation  
3 of taxable income;

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

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

23 (L) For taxable years ending after December 31,  
24 1983, an amount equal to all social security benefits  
25 and railroad retirement benefits included in such  
26 total pursuant to Sections 72(r) and 86 of the Internal

1 Revenue Code;

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

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

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



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

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

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

13           (S) An amount, to the extent included in adjusted  
14 gross income, equal to the amount of a contribution  
15 made in the taxable year on behalf of the taxpayer to a  
16 medical care savings account established under the  
17 Medical Care Savings Account Act or the Medical Care  
18 Savings Account Act of 2000 to the extent the  
19 contribution is accepted by the account administrator  
20 as provided in that Act;

21           (T) An amount, to the extent included in adjusted  
22 gross income, equal to the amount of interest earned in  
23 the taxable year on a medical care savings account  
24 established under the Medical Care Savings Account Act  
25 or the Medical Care Savings Account Act of 2000 on  
26 behalf of the taxpayer, other than interest added

1           pursuant to item (D-5) of this paragraph (2);

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

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

1 amount of the health insurance and long-term care  
2 insurance subtracted under this item (V) shall be  
3 determined by multiplying total health insurance and  
4 long-term care insurance premiums paid by the taxpayer  
5 times a number that represents the fractional  
6 percentage of eligible medical expenses under Section  
7 213 of the Internal Revenue Code of 1986 not actually  
8 deducted on the taxpayer's federal income tax return;

9 (W) For taxable years beginning on or after January  
10 1, 1998, all amounts included in the taxpayer's federal  
11 gross income in the taxable year from amounts converted  
12 from a regular IRA to a Roth IRA. This paragraph is  
13 exempt from the provisions of Section 250;

14 (X) For taxable year 1999 and thereafter, an amount  
15 equal to the amount of any (i) distributions, to the  
16 extent includible in gross income for federal income  
17 tax purposes, made to the taxpayer because of his or  
18 her status as a victim of persecution for racial or  
19 religious reasons by Nazi Germany or any other Axis  
20 regime or as an heir of the victim and (ii) items of  
21 income, to the extent includible in gross income for  
22 federal income tax purposes, attributable to, derived  
23 from or in any way related to assets stolen from,  
24 hidden from, or otherwise lost to a victim of  
25 persecution for racial or religious reasons by Nazi  
26 Germany or any other Axis regime immediately prior to,

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

21 (Y) For taxable years beginning on or after January  
22 1, 2002 and ending on or before December 31, 2004,  
23 moneys contributed in the taxable year to a College  
24 Savings Pool account under Section 16.5 of the State  
25 Treasurer Act, except that amounts excluded from gross  
26 income under Section 529(c)(3)(C)(i) of the Internal

1 Revenue Code shall not be considered moneys  
2 contributed under this subparagraph (Y). For taxable  
3 years beginning on or after January 1, 2005, a maximum  
4 of \$10,000 contributed in the taxable year to (i) a  
5 College Savings Pool account under Section 16.5 of the  
6 State Treasurer Act or (ii) the Illinois Prepaid  
7 Tuition Trust Fund, except that amounts excluded from  
8 gross income under Section 529(c)(3)(C)(i) of the  
9 Internal Revenue Code shall not be considered moneys  
10 contributed under this subparagraph (Y). For purposes  
11 of this subparagraph, contributions made by an  
12 employer on behalf of an employee, or matching  
13 contributions made by an employee, shall be treated as  
14 made by the employee. This subparagraph (Y) is exempt  
15 from the provisions of Section 250;

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

22 (1) "y" equals the amount of the depreciation  
23 deduction taken for the taxable year on the  
24 taxpayer's federal income tax return on property  
25 for which the bonus depreciation deduction was  
26 taken in any year under subsection (k) of Section

1 168 of the Internal Revenue Code, but not including  
2 the bonus depreciation deduction;

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

7 (3) for taxable years ending after December  
8 31, 2005:

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

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

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

26 (AA) If the taxpayer sells, transfers, abandons,

1 or otherwise disposes of property for which the  
2 taxpayer was required in any taxable year to make an  
3 addition modification under subparagraph (D-15), then  
4 an amount equal to that addition modification.

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 required in any taxable year to make an addition  
10 modification under subparagraph (D-15), then an amount  
11 equal to that addition modification.

12 The taxpayer is allowed to take the deduction under  
13 this subparagraph only once with respect to any one  
14 piece of property.

15 This subparagraph (AA) is exempt from the  
16 provisions of Section 250;

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

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

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

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



1 taxable year under Section 203(a)(2)(D-17) for  
2 interest paid, accrued, or incurred, directly or  
3 indirectly, to the same person. This subparagraph (DD)  
4 is exempt from the provisions of Section 250; ~~and~~

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

26 (FF) For taxable years ending after December 31,

1           2011 and on or before December 30, 2021, all amounts  
2           included in the taxpayer's federal gross income in the  
3           taxable year consisting of (i) the principal  
4           contributed to and the interest earned on a health  
5           savings account and (ii) money reimbursed to an  
6           eligible individual or an employee from a health  
7           savings account for qualified medical expenses under  
8           the Health Savings Account Act.

9           (b) Corporations.

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

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

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

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

24           (C) In the case of a regulated investment company,  
25           an amount equal to the excess of (i) the net long-term

1 capital gain for the taxable year, over (ii) the amount  
2 of the capital gain dividends designated as such in  
3 accordance with Section 852(b)(3)(C) of the Internal  
4 Revenue Code and any amount designated under Section  
5 852(b)(3)(D) of the Internal Revenue Code,  
6 attributable to the taxable year (this amendatory Act  
7 of 1995 (Public Act 89-89) is declarative of existing  
8 law and is not a new enactment);

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

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

23 (i) 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 be reduced by the amount of

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

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

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

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

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

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

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 allowed in any taxable year to make a subtraction  
13 modification under subparagraph (T), then an amount  
14 equal to that subtraction modification.

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

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

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

19 This paragraph shall not apply to the following:

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

26 (ii) an item of interest paid, accrued, or

1 incurred, directly or indirectly, to a person if  
2 the taxpayer can establish, based on a  
3 preponderance of the evidence, both of the  
4 following:

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

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

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

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

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



1           304. 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 person who is  
8 subject in a foreign country or state, other than a  
9 state which requires mandatory unitary reporting,  
10 to a tax on or measured by net income with respect  
11 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 person during the same taxable  
18 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 person did not have as a  
24 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 person if the  
5                   taxpayer establishes by clear and convincing  
6                   evidence, that the adjustments are unreasonable;  
7                   or if the taxpayer and the Director agree in  
8                   writing to the application or use of an alternative  
9                   method of apportionment under Section 304(f);

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

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

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

19 (E-15) For taxable years beginning after December  
20 31, 2008, any deduction for dividends paid by a captive  
21 real estate investment trust that is allowed to a real  
22 estate investment trust under Section 857(b) (2) (B) of  
23 the Internal Revenue Code for dividends paid;

24 (E-16) An amount equal to the credit allowable to  
25 the taxpayer under Section 218(a) of this Act,  
26 determined without regard to Section 218(c) of this

1 Act;

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

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

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

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

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

1 provisions of Section 250;

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

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

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

1           subparagraph (K) of paragraph 2 of this subsection  
2           shall not be eligible for the deduction provided under  
3           this subparagraph (L);

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

1 Section 250;

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



1           (N) Two times any contribution made during the  
2 taxable year to a designated zone organization to the  
3 extent that the contribution (i) qualifies as a  
4 charitable contribution under subsection (c) of  
5 Section 170 of the Internal Revenue Code and (ii) must,  
6 by its terms, be used for a project approved by the  
7 Department of Commerce and Economic Opportunity under  
8 Section 11 of the Illinois Enterprise Zone Act or under  
9 Section 10-10 of the River Edge Redevelopment Zone Act.  
10 This subparagraph (N) is exempt from the provisions of  
11 Section 250;

12           (O) An amount equal to: (i) 85% for taxable years  
13 ending on or before December 31, 1992, or, a percentage  
14 equal to the percentage allowable under Section  
15 243(a)(1) of the Internal Revenue Code of 1986 for  
16 taxable years ending after December 31, 1992, of the  
17 amount by which dividends included in taxable income  
18 and received from a corporation that is not created or  
19 organized under the laws of the United States or any  
20 state or political subdivision thereof, including, for  
21 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, exceed the amount of the modification  
25 provided under subparagraph (G) of paragraph (2) of  
26 this subsection (b) which is related to such dividends,

1 and including, for taxable years ending on or after  
2 December 31, 2008, dividends received from a captive  
3 real estate investment trust; plus (ii) 100% of the  
4 amount by which dividends, included in taxable income  
5 and received, including, for taxable years ending on or  
6 after December 31, 1988, dividends received or deemed  
7 received or paid or deemed paid under Sections 951  
8 through 964 of the Internal Revenue Code and including,  
9 for taxable years ending on or after December 31, 2008,  
10 dividends received from a captive real estate  
11 investment trust, from any such corporation specified  
12 in clause (i) that would but for the provisions of  
13 Section 1504 (b) (3) of the Internal Revenue Code be  
14 treated as a member of the affiliated group which  
15 includes the dividend recipient, exceed the amount of  
16 the modification provided under subparagraph (G) of  
17 paragraph (2) of this subsection (b) which is related  
18 to such dividends. This subparagraph (O) is exempt from  
19 the provisions of Section 250 of this Act;

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

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

1 the Internal Revenue Code of 1986;

2 (R) On and after July 20, 1999, in the case of an  
3 attorney-in-fact with respect to whom an interinsurer  
4 or a reciprocal insurer has made the election under  
5 Section 835 of the Internal Revenue Code, 26 U.S.C.  
6 835, an amount equal to the excess, if any, of the  
7 amounts paid or incurred by that interinsurer or  
8 reciprocal insurer in the taxable year to the  
9 attorney-in-fact over the deduction allowed to that  
10 interinsurer or reciprocal insurer with respect to the  
11 attorney-in-fact under Section 835(b) of the Internal  
12 Revenue Code for the taxable year; the provisions of  
13 this subparagraph are exempt from the provisions of  
14 Section 250;

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

25 (T) For taxable years 2001 and thereafter, for the  
26 taxable year in which the bonus depreciation deduction

1 is taken on the taxpayer's federal income tax return  
2 under subsection (k) of Section 168 of the Internal  
3 Revenue Code and for each applicable taxable year  
4 thereafter, an amount equal to "x", where:

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

12 (2) for taxable years ending on or before  
13 December 31, 2005, "x" equals "y" multiplied by 30  
14 and then divided by 70 (or "y" multiplied by  
15 0.429); and

16 (3) for taxable years ending after December  
17 31, 2005:

18 (i) for property on which a bonus  
19 depreciation deduction of 30% of the adjusted  
20 basis was taken, "x" equals "y" multiplied by  
21 30 and then divided by 70 (or "y" multiplied by  
22 0.429); and

23 (ii) for property on which a bonus  
24 depreciation deduction of 50% of the adjusted  
25 basis was taken, "x" equals "y" multiplied by  
26 1.0.

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

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

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

21          The taxpayer is allowed to take the deduction under  
22          this subparagraph only once with respect to any one  
23          piece of property.

24          This subparagraph (U) is exempt from the  
25          provisions of Section 250;

26          (V) The amount of: (i) any interest income (net of

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

25 (W) An amount equal to the interest income taken  
26 into account for the taxable year (net of the

1           deductions allocable thereto) with respect to  
2           transactions with (i) 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 and (ii) for taxable  
7           years ending on or after December 31, 2008, to a person  
8           who would be a member of the same unitary business  
9           group but for the fact that the person is prohibited  
10          under Section 1501(a)(27) from being included in the  
11          unitary business group because he or she is ordinarily  
12          required to apportion business income under different  
13          subsections of Section 304, but not to exceed the  
14          addition modification required to be made for the same  
15          taxable year under Section 203(b)(2)(E-12) for  
16          interest paid, accrued, or incurred, directly or  
17          indirectly, to the same person. This subparagraph (W)  
18          is exempt from the provisions of Section 250; and

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

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

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

18 (c) Trusts and estates.

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

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



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

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

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

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

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

1           they are listed:

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

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

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

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

1 Act;

2 (G) 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 taxable income;

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

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

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

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

1 was allowed in any taxable year to make a subtraction  
2 modification under subparagraph (R), then an amount  
3 equal to that subtraction modification.

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

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

1 taxpayer's unitary business group (including amounts  
2 included in gross income pursuant to Sections 951  
3 through 964 of the Internal Revenue Code and amounts  
4 included in gross income under Section 78 of the  
5 Internal Revenue Code) with respect to the stock of the  
6 same person to whom the interest was paid, accrued, or  
7 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 person who  
11 is subject in a foreign country or state, other  
12 than a state which requires mandatory unitary  
13 reporting, to a tax on or measured by net income  
14 with respect to such interest; or

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

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

23 (b) the transaction giving rise to the  
24 interest expense between the taxpayer and the  
25 person did not have as a principal purpose the  
26 avoidance of Illinois income tax, and is paid

1           pursuant to a contract or agreement that  
2           reflects an arm's-length interest rate and  
3           terms; or

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

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

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

26          (G-13) An amount equal to the amount of intangible

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

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

19 This paragraph shall not apply to the following:

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



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

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

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

17           (iii) any item of intangible expense or cost  
18           paid, accrued, or incurred, directly or  
19           indirectly, from a transaction with a person if the  
20           taxpayer establishes by clear and convincing  
21           evidence, that the adjustments are unreasonable;  
22           or if the taxpayer and the Director agree in  
23           writing to the application or use of an alternative  
24           method of apportionment under Section 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-14) For taxable years ending on or after  
9 December 31, 2008, an amount equal to the amount of  
10 insurance premium expenses and costs otherwise allowed  
11 as a deduction in computing base income, and that were  
12 paid, accrued, or incurred, directly or indirectly, to  
13 a person who would be a member of the same unitary  
14 business group but for the fact that the person is  
15 prohibited under Section 1501(a)(27) from being  
16 included in the unitary business group because he or  
17 she is ordinarily required to apportion business  
18 income under different subsections of Section 304. The  
19 addition modification required by this subparagraph  
20 shall be reduced to the extent that dividends were  
21 included in base income of the unitary group for the  
22 same taxable year and received by the taxpayer or by a  
23 member of the taxpayer's unitary business group  
24 (including amounts included in gross income under  
25 Sections 951 through 964 of the Internal Revenue Code  
26 and amounts included in gross income under Section 78

1 of the Internal Revenue Code) with respect to the stock  
2 of the same person to whom the premiums and costs were  
3 directly or indirectly paid, incurred, or accrued. The  
4 preceding sentence does not apply to the extent that  
5 the same dividends caused a reduction to the addition  
6 modification required under Section 203(c)(2)(G-12) or  
7 Section 203(c)(2)(G-13) of this Act;

8 (G-15) An amount equal to the credit allowable to  
9 the taxpayer under Section 218(a) of this Act,  
10 determined without regard to Section 218(c) of this  
11 Act;

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

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

25 (I) The valuation limitation amount;

26 (J) An amount equal to the amount of any tax

1 imposed by this Act which was refunded to the taxpayer  
2 and included in such total for the taxable year;

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

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

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

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

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

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

1 the Internal Revenue Code of 1986;

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

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

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

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

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

26 (3) for taxable years ending after December

1                   31, 2005:

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

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

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

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

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



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

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

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

10 (T) The amount of (i) any interest income (net of  
11 the deductions allocable thereto) taken into account  
12 for the taxable year with respect to a transaction with  
13 a taxpayer that is required to make an addition  
14 modification with respect to such transaction under  
15 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
16 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
17 the amount of such addition modification and (ii) any  
18 income from intangible property (net of the deductions  
19 allocable thereto) taken into account for the taxable  
20 year with respect to a transaction with a taxpayer that  
21 is required to make an addition modification with  
22 respect to such transaction under Section  
23 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
24 203(d)(2)(D-8), but not to exceed the amount of such  
25 addition modification. This subparagraph (T) is exempt  
26 from the provisions of Section 250;

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

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

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

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

23 (d) Partnerships.

24 (1) In general. In the case of a partnership, base  
25 income means an amount equal to the taxpayer's taxable

1 income for the taxable year as modified by paragraph (2).

2 (2) Modifications. The taxable income referred to in  
3 paragraph (1) shall be modified by adding thereto the sum  
4 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 taxable income;

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

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

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

19 (D-5) 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-6) 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-5), then  
2 an amount equal to the aggregate amount of the  
3 deductions taken in all taxable years under  
4 subparagraph (O) 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 (O), 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-7) An amount equal to the amount otherwise  
16 allowed as a deduction in computing base income for  
17 interest paid, accrued, or incurred, directly or  
18 indirectly, (i) for taxable years ending on or after  
19 December 31, 2004, to a foreign person who would be a  
20 member of the same unitary business group but for the  
21 fact the foreign person's business activity outside  
22 the United States is 80% or more of the foreign  
23 person's total business activity and (ii) for taxable  
24 years ending on or after December 31, 2008, to a person  
25 who would be a member of the same unitary business  
26 group but for the fact that the person is prohibited

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

16 This paragraph shall not apply to the following:

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

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

1 following:

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

5 (b) the transaction giving rise to the  
6 interest expense between the taxpayer and the  
7 person did not have as a principal purpose the  
8 avoidance of Illinois income tax, and is paid  
9 pursuant to a contract or agreement that  
10 reflects an arm's-length interest rate and  
11 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 person if  
20 the taxpayer establishes by clear and convincing  
21 evidence that the adjustments are unreasonable; or  
22 if the taxpayer and the Director agree in writing  
23 to the application or use of an alternative method  
24 of apportionment under Section 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; and

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



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

1 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) any item of intangible expense or cost  
26 paid, accrued, or incurred, directly or

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

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

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

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

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

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

22 (E) The valuation limitation amount;

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

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

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

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

16 (I) An amount equal to all amounts of income  
17 distributable to an entity subject to the Personal  
18 Property Tax Replacement Income Tax imposed by  
19 subsections (c) and (d) of Section 201 of this Act  
20 including amounts distributable to organizations  
21 exempt from federal income tax by reason of Section  
22 501(a) of the Internal Revenue Code, provided that the  
23 deduction under this subparagraph (I) shall not be  
24 allowed to a publicly traded partnership under Section  
25 7704 of the Internal Revenue Code for any taxable year  
26 ending on or after December 31, 2009;

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

14           (K) An amount equal to those dividends included in  
15 such total which were paid by a corporation which  
16 conducts business operations in an Enterprise Zone or  
17 zones created under the Illinois Enterprise Zone Act,  
18 enacted by the 82nd General Assembly, or a River Edge  
19 Redevelopment Zone or zones created under the River  
20 Edge Redevelopment Zone Act and conducts substantially  
21 all of its operations in an Enterprise Zone or Zones or  
22 from a River Edge Redevelopment Zone or zones. This  
23 subparagraph (K) is exempt from the provisions of  
24 Section 250;

25           (L) An amount equal to any contribution made to a  
26 job training project established pursuant to the Real

1 Property Tax Increment Allocation Redevelopment Act;

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

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

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

22 (1) "y" equals the amount of the depreciation  
23 deduction taken for the taxable year on the  
24 taxpayer's federal income tax return on property  
25 for which the bonus depreciation deduction was  
26 taken in any year under subsection (k) of Section

1 168 of the Internal Revenue Code, but not including  
2 the bonus depreciation deduction;

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

7 (3) for taxable years ending after December  
8 31, 2005:

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

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

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

26 (P) If the taxpayer sells, transfers, abandons, or



1 otherwise disposes of property for which the taxpayer  
2 was required in any taxable year to make an addition  
3 modification under subparagraph (D-5), then an amount  
4 equal to that addition modification.

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 required in any taxable year to make an addition  
10 modification under subparagraph (D-5), then an amount  
11 equal to that addition modification.

12 The taxpayer is allowed to take the deduction under  
13 this subparagraph only once with respect to any one  
14 piece of property.

15 This subparagraph (P) is exempt from the  
16 provisions of Section 250;

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

1 year with respect to a transaction with a taxpayer that  
2 is required to make an addition modification with  
3 respect to such transaction under Section  
4 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
5 203(d)(2)(D-8), but not to exceed the amount of such  
6 addition modification. This subparagraph (Q) is exempt  
7 from Section 250;

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

1 Section 250; and

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

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

23 (1) In general. Subject to the provisions of paragraph  
24 (2) and subsection (b) (3), for purposes of this Section  
25 and Section 803(e), a taxpayer's gross income, adjusted

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

1 under subparagraph (E) of paragraph (2) of this subsection  
2 (e) applied in conjunction with Section 172 of the Internal  
3 Revenue Code.

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

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

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

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

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

26 (E) Consolidated corporations. In the case of a

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

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

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

1 a federal election to opt out of the provisions of the  
2 Subchapter S Revision Act of 1982 and have applied  
3 instead the prior federal Subchapter S rules as in  
4 effect on July 1, 1982, the taxable income of such  
5 corporation determined in accordance with the federal  
6 Subchapter S rules as in effect on July 1, 1982; and

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

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

1 taxable year or the average of the apportionment fractions  
2 computed for the business under Section 304 of this Act for  
3 the taxable year and for the 2 immediately preceding  
4 taxable years.

5 (f) Valuation limitation amount.

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

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

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

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

23 (A) If the fair market value of property referred  
24 to in paragraph (1) was readily ascertainable on August  
25 1, 1969, the pre-August 1, 1969 appreciation amount for



1           such property is the lesser of (i) the excess of such  
2           fair market value over the taxpayer's basis (for  
3           determining gain) for such property on that date  
4           (determined under the Internal Revenue Code as in  
5           effect on that date), or (ii) the total gain realized  
6           and reportable for federal income tax purposes in  
7           respect of the sale, exchange or other disposition of  
8           such property.

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

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

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

1           (h) Legislative intention. Except as expressly provided by  
2 this Section there shall be no modifications or limitations on  
3 the amounts of income, gain, loss or deduction taken into  
4 account in determining gross income, adjusted gross income or  
5 taxable income for federal income tax purposes for the taxable  
6 year, or in the amount of such items entering into the  
7 computation of base income and net income under this Act for  
8 such taxable year, whether in respect of property values as of  
9 August 1, 1969 or otherwise.

10       (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,  
11 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;  
12 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09;  
13 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff.  
14 8-14-09; 96-835, eff. 12-16-09.)

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

17           Section 999. Effective date. This Act takes effect July 1,  
18 2010.