

**HB0709**



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB0709**

Introduced 02/01/05, by Rep. William B. Black

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Sets forth procedures for for calculating the deduction for the depreciation of property for which a bonus depreciation deduction was taken from the taxpayer's federal adjusted gross income. Effective immediately.

LRB094 08094 BDD 38278 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

27 (C) An amount equal to the amount received during  
28 the taxable year as a recovery or refund of real  
29 property taxes paid with respect to the taxpayer's  
30 principal residence under the Revenue Act of 1939 and  
31 for which a deduction was previously taken under  
32 subparagraph (L) of this paragraph (2) prior to July 1,

1 1991, the retrospective application date of Article 4  
2 of Public Act 87-17. In the case of multi-unit or  
3 multi-use structures and farm dwellings, the taxes on  
4 the taxpayer's principal residence shall be that  
5 portion of the total taxes for the entire property  
6 which is attributable to such principal residence;

7 (D) An amount equal to the amount of the capital  
8 gain deduction allowable under the Internal Revenue  
9 Code, to the extent deducted from gross income in the  
10 computation of adjusted gross income;

11 (D-5) An amount, to the extent not included in  
12 adjusted gross income, equal to the amount of money  
13 withdrawn by the taxpayer in the taxable year from a  
14 medical care savings account and the interest earned on  
15 the account in the taxable year of a withdrawal  
16 pursuant to subsection (b) of Section 20 of the Medical  
17 Care Savings Account Act or subsection (b) of Section  
18 20 of the Medical Care Savings Account Act of 2000;

19 (D-10) For taxable years ending after December 31,  
20 1997, an amount equal to any eligible remediation costs  
21 that the individual deducted in computing adjusted  
22 gross income and for which the individual claims a  
23 credit under subsection (l) of Section 201;

24 (D-15) For taxable years 2001 and thereafter, an  
25 amount equal to the bonus depreciation deduction ~~+(30%~~  
26 ~~of the adjusted basis of the qualified property)~~ taken  
27 on the taxpayer's federal income tax return for the  
28 taxable year under subsection (k) of Section 168 of the  
29 Internal Revenue Code;

30 (D-16) If the taxpayer reports a capital gain or  
31 loss on the taxpayer's federal income tax return for  
32 the taxable year based on a sale or transfer of  
33 property for which the taxpayer was required in any  
34 taxable year to make an addition modification under  
35 subparagraph (D-15), then an amount equal to the  
36 aggregate amount of the deductions taken in all taxable

1 years under subparagraph (Z) with respect to that  
2 property.

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

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

25 This paragraph shall not apply to the following:

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

32 (ii) an item of interest paid, accrued, or  
33 incurred, directly or indirectly, to a foreign  
34 person if the taxpayer can establish, based on a  
35 preponderance of the evidence, both of the  
36 following:

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

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

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

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

26 Nothing in this subsection shall preclude the  
27 Director from making any other adjustment  
28 otherwise allowed under Section 404 of this Act for  
29 any tax year beginning after the effective date of  
30 this amendment provided such adjustment is made  
31 pursuant to regulation adopted by the Department  
32 and such regulations provide methods and standards  
33 by which the Department will utilize its authority  
34 under Section 404 of this Act;

35 (D-18) For taxable years ending on or after  
36 December 31, 2004, an amount equal to the amount of

1 intangible expenses and costs otherwise allowed as a  
2 deduction in computing base income, and that were paid,  
3 accrued, or incurred, directly or indirectly, to a  
4 foreign person who would be a member of the same  
5 unitary business group but for the fact that the  
6 foreign person's business activity outside the United  
7 States is 80% or more of that person's total business  
8 activity. The addition modification required by this  
9 subparagraph shall be reduced to the extent that  
10 dividends were included in base income of the unitary  
11 group for the same taxable year and received by the  
12 taxpayer or by a member of the taxpayer's unitary  
13 business group (including amounts included in gross  
14 income under Sections 951 through 964 of the Internal  
15 Revenue Code and amounts included in gross income under  
16 Section 78 of the Internal Revenue Code) with respect  
17 to the stock of the same person to whom the intangible  
18 expenses and costs were directly or indirectly paid,  
19 incurred, or accrued. The preceding sentence does not  
20 apply to the extent that the same dividends caused a  
21 reduction to the addition modification required under  
22 Section 203(a)(2)(D-17) of this Act. As used in this  
23 subparagraph, the term "intangible expenses and costs"  
24 includes (1) expenses, losses, and costs for, or  
25 related to, the direct or indirect acquisition, use,  
26 maintenance or management, ownership, sale, exchange,  
27 or any other disposition of intangible property; (2)  
28 losses incurred, directly or indirectly, from  
29 factoring transactions or discounting transactions;  
30 (3) royalty, patent, technical, and copyright fees;  
31 (4) licensing fees; and (5) other similar expenses and  
32 costs. For purposes of this subparagraph, "intangible  
33 property" includes patents, patent applications, trade  
34 names, trademarks, service marks, copyrights, mask  
35 works, trade secrets, and similar types of intangible  
36 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 foreign  
5 person who is subject in a foreign country or  
6 state, other than a state which requires mandatory  
7 unitary reporting, to a tax on or measured by net  
8 income with respect 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 foreign person during the same  
15 taxable 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 foreign person did not have as  
21 a 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  
27 indirectly, from a transaction with a foreign  
28 person if the taxpayer establishes by clear and  
29 convincing evidence, that the adjustments are  
30 unreasonable; or if the taxpayer and the Director  
31 agree in writing to the application or use of an  
32 alternative method of apportionment under Section  
33 304(f);

34 Nothing in this subsection shall preclude the  
35 Director from making any other adjustment  
36 otherwise allowed under Section 404 of this Act for

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

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

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

18 (E) For taxable years ending before December 31,  
19 2001, any amount included in such total in respect of  
20 any compensation (including but not limited to any  
21 compensation paid or accrued to a serviceman while a  
22 prisoner of war or missing in action) paid to a  
23 resident by reason of being on active duty in the Armed  
24 Forces of the United States and in respect of any  
25 compensation paid or accrued to a resident who as a  
26 governmental employee was a prisoner of war or missing  
27 in action, and in respect of any compensation paid to a  
28 resident in 1971 or thereafter for annual training  
29 performed pursuant to Sections 502 and 503, Title 32,  
30 United States Code as a member of the Illinois National  
31 Guard. For taxable years ending on or after December  
32 31, 2001, any amount included in such total in respect  
33 of any compensation (including but not limited to any  
34 compensation paid or accrued to a serviceman while a  
35 prisoner of war or missing in action) paid to a  
36 resident by reason of being a member of any component



1 of the Armed Forces of the United States and in respect  
2 of any compensation paid or accrued to a resident who  
3 as a governmental employee was a prisoner of war or  
4 missing in action, and in respect of any compensation  
5 paid to a resident in 2001 or thereafter by reason of  
6 being a member of the Illinois National Guard. The  
7 provisions of this amendatory Act of the 92nd General  
8 Assembly are exempt from the provisions of Section 250;

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

20 (G) The valuation limitation amount;

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

24 (I) An amount equal to all amounts included in such  
25 total pursuant to the provisions of Section 111 of the  
26 Internal Revenue Code as a recovery of items previously  
27 deducted from adjusted gross income in the computation  
28 of taxable income;

29 (J) An amount equal to those dividends included in  
30 such total which were paid by a corporation which  
31 conducts business operations in an Enterprise Zone or  
32 zones created under the Illinois Enterprise Zone Act,  
33 and conducts substantially all of its operations in an  
34 Enterprise Zone or zones;

35 (K) An amount equal to those dividends included in  
36 such total that were paid by a corporation that

1 conducts business operations in a federally designated  
2 Foreign Trade Zone or Sub-Zone and that is designated a  
3 High Impact Business located in Illinois; provided  
4 that dividends eligible for the deduction provided in  
5 subparagraph (J) of paragraph (2) of this subsection  
6 shall not be eligible for the deduction provided under  
7 this subparagraph (K);

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

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

26 (N) An amount equal to all amounts included in such  
27 total which are exempt from taxation by this State  
28 either by reason of its statutes or Constitution or by  
29 reason of the Constitution, treaties or statutes of the  
30 United States; provided that, in the case of any  
31 statute of this State that exempts income derived from  
32 bonds or other obligations from the tax imposed under  
33 this Act, the amount exempted shall be the interest net  
34 of bond premium amortization;

35 (O) An amount equal to any contribution made to a  
36 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

35 (V) Beginning with tax years ending on or after  
36 December 31, 1995 and ending with tax years ending on

1 or before December 31, 2004, an amount equal to the  
2 amount paid by a taxpayer who is a self-employed  
3 taxpayer, a partner of a partnership, or a shareholder  
4 in a Subchapter S corporation for health insurance or  
5 long-term care insurance for that taxpayer or that  
6 taxpayer's spouse or dependents, to the extent that the  
7 amount paid for that health insurance or long-term care  
8 insurance may be deducted under Section 213 of the  
9 Internal Revenue Code of 1986, has not been deducted on  
10 the federal income tax return of the taxpayer, and does  
11 not exceed the taxable income attributable to that  
12 taxpayer's income, self-employment income, or  
13 Subchapter S corporation income; except that no  
14 deduction shall be allowed under this item (V) if the  
15 taxpayer is eligible to participate in any health  
16 insurance or long-term care insurance plan of an  
17 employer of the taxpayer or the taxpayer's spouse. The  
18 amount of the health insurance and long-term care  
19 insurance subtracted under this item (V) shall be  
20 determined by multiplying total health insurance and  
21 long-term care insurance premiums paid by the taxpayer  
22 times a number that represents the fractional  
23 percentage of eligible medical expenses under Section  
24 213 of the Internal Revenue Code of 1986 not actually  
25 deducted on the taxpayer's federal income tax return;

26 (W) For taxable years beginning on or after January  
27 1, 1998, all amounts included in the taxpayer's federal  
28 gross income in the taxable year from amounts converted  
29 from a regular IRA to a Roth IRA. This paragraph is  
30 exempt from the provisions of Section 250;

31 (X) For taxable year 1999 and thereafter, an amount  
32 equal to the amount of any (i) distributions, to the  
33 extent includible in gross income for federal income  
34 tax purposes, made to the taxpayer because of his or  
35 her status as a victim of persecution for racial or  
36 religious reasons by Nazi Germany or any other Axis

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

28 (Y) For taxable years beginning on or after January  
29 1, 2002 and ending on or before December 31, 2004,  
30 moneys contributed in the taxable year to a College  
31 Savings Pool account under Section 16.5 of the State  
32 Treasurer Act, except that amounts excluded from gross  
33 income under Section 529(c)(3)(C)(i) of the Internal  
34 Revenue Code shall not be considered moneys  
35 contributed under this subparagraph (Y). For taxable  
36 years beginning on or after January 1, 2005, a maximum

1 of \$10,000 contributed in the taxable year to (i) a  
2 College Savings Pool account under Section 16.5 of the  
3 State Treasurer Act or (ii) the Illinois Prepaid  
4 Tuition Trust Fund, except that amounts excluded from  
5 gross income under Section 529(c)(3)(C)(i) of the  
6 Internal Revenue Code shall not be considered moneys  
7 contributed under this subparagraph (Y). This  
8 subparagraph (Y) is exempt from the provisions of  
9 Section 250;

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

17 (1) "y" equals the amount of the depreciation  
18 deduction taken for the taxable year on the  
19 taxpayer's federal income tax return on property  
20 for which the bonus depreciation deduction ~~(30% of~~  
21 ~~the adjusted basis of the qualified property)~~ was  
22 taken in any year under subsection (k) of Section  
23 168 of the Internal Revenue Code, but not including  
24 the bonus depreciation deduction; and

25 (2) for property on which a bonus depreciation  
26 deduction of 30% of the adjusted basis was taken,  
27 "x" equals "y" multiplied by 30 and then divided by  
28 70 (or "y" multiplied by 0.429), and for property  
29 on which a bonus depreciation deduction of 50% of  
30 the adjusted basis was taken, "x" equals "y"  
31 multiplied by 1.0.

32 The aggregate amount deducted under this  
33 subparagraph in all taxable years for any one piece of  
34 property may not exceed the amount of the bonus  
35 depreciation deduction ~~(30% of the adjusted basis of~~  
36 ~~the qualified property)~~ taken on that property on the

1 taxpayer's federal income tax return under subsection  
2 (k) of Section 168 of the Internal Revenue Code;

3 (AA) If the taxpayer reports a capital gain or loss  
4 on the taxpayer's federal income tax return for the  
5 taxable year based on a sale or transfer of property  
6 for which the taxpayer was required in any taxable year  
7 to make an addition modification under subparagraph  
8 (D-15), then an amount equal to that addition  
9 modification.

10 The taxpayer is allowed to take the deduction under  
11 this subparagraph only once with respect to any one  
12 piece of property;

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

16 (CC) The amount of (i) any interest income (net of  
17 the deductions allocable thereto) taken into account  
18 for the taxable year with respect to a transaction with  
19 a taxpayer that is required to make an addition  
20 modification with respect to such transaction under  
21 Section 203(a)(2)(D-17), 203(b)(2)(E-13),  
22 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
23 the amount of that addition modification, and (ii) any  
24 income from intangible property (net of the deductions  
25 allocable thereto) taken into account for the taxable  
26 year with respect to a transaction with a taxpayer that  
27 is required to make an addition modification with  
28 respect to such transaction under Section  
29 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or  
30 203(d)(2)(D-8), but not to exceed the amount of that  
31 addition modification;

32 (DD) An amount equal to the interest income taken  
33 into account for the taxable year (net of the  
34 deductions allocable thereto) with respect to  
35 transactions with a foreign person who would be a  
36 member of the taxpayer's unitary business group but for

1 the fact that the foreign person's business activity  
2 outside the United States is 80% or more of that  
3 person's total business activity, but not to exceed the  
4 addition modification required to be made for the same  
5 taxable year under Section 203(a)(2)(D-17) for  
6 interest paid, accrued, or incurred, directly or  
7 indirectly, to the same foreign person; and

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

21 (b) Corporations.

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

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

28 (A) An amount equal to all amounts paid or accrued  
29 to the taxpayer as interest and all distributions  
30 received from regulated investment companies during  
31 the taxable year to the extent excluded from gross  
32 income in the computation of taxable income;

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



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

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

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

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

33 (ii) the addition modification relating to the  
34 net operating loss carried back or forward to the  
35 taxable year from any taxable year ending prior to  
36 December 31, 1986 shall not exceed the amount of

1           such carryback or carryforward;

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

9           (E-5) For taxable years ending after December 31,  
10 1997, an amount equal to any eligible remediation costs  
11 that the corporation deducted in computing adjusted  
12 gross income and for which the corporation claims a  
13 credit under subsection (l) of Section 201;

14           (E-10) For taxable years 2001 and thereafter, an  
15 amount equal to the bonus depreciation deduction ~~(30%~~  
16 ~~of the adjusted basis of the qualified property)~~ taken  
17 on the taxpayer's federal income tax return for the  
18 taxable year under subsection (k) of Section 168 of the  
19 Internal Revenue Code; and

20           (E-11) If the taxpayer reports a capital gain or  
21 loss on the taxpayer's federal income tax return for  
22 the taxable year based on a sale or transfer of  
23 property for which the taxpayer was required in any  
24 taxable year to make an addition modification under  
25 subparagraph (E-10), then an amount equal to the  
26 aggregate amount of the deductions taken in all taxable  
27 years under subparagraph (T) with respect to that  
28 property.

29           The taxpayer is required to make the addition  
30 modification under this subparagraph only once with  
31 respect to any one piece of property;

32           (E-12) For taxable years ending on or after  
33 December 31, 2004, an amount equal to the amount  
34 otherwise allowed as a deduction in computing base  
35 income for interest paid, accrued, or incurred,  
36 directly or indirectly, to a foreign person who would

1 be a member of the same unitary business group but for  
2 the fact the foreign person's business activity  
3 outside the United States is 80% or more of the foreign  
4 person's total business activity. The addition  
5 modification required by this subparagraph shall be  
6 reduced to the extent that dividends were included in  
7 base income of the unitary group for the same taxable  
8 year and 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 foreign  
19 person who is subject in a foreign country or  
20 state, other than a state which requires mandatory  
21 unitary reporting, to a tax on or measured by net  
22 income with respect to such interest; or

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

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

32 (b) the transaction giving rise to the  
33 interest expense between the taxpayer and the  
34 foreign person did not have as a principal  
35 purpose the avoidance of Illinois income tax,  
36 and is paid pursuant to a contract or agreement

1           that reflects an arm's-length interest rate  
2           and terms; or

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

9           (iv) an item of interest paid, accrued, or  
10          incurred, directly or indirectly, to a foreign  
11          person if the taxpayer establishes by clear and  
12          convincing evidence that the adjustments are  
13          unreasonable; or if the taxpayer and the Director  
14          agree in writing to the application or use of an  
15          alternative method of apportionment under Section  
16          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          (E-13) For taxable years ending on or after  
27          December 31, 2004, an amount equal to the amount of  
28          intangible expenses and costs otherwise allowed as a  
29          deduction in computing base income, and that were paid,  
30          accrued, or incurred, directly or indirectly, to a  
31          foreign person who would be a member of the same  
32          unitary business group but for the fact that the  
33          foreign person's business activity outside the United  
34          States is 80% or more of that person's total business  
35          activity. The addition modification required by this  
36          subparagraph shall be reduced to the extent that

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

28 This paragraph shall not apply to the following:

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

36 (ii) any item of intangible expense or cost

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

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

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

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

25                   Nothing in this subsection shall preclude the  
26                   Director from making any other adjustment  
27                   otherwise allowed under Section 404 of this Act for  
28                   any tax year beginning after the effective date of  
29                   this amendment provided such adjustment is made  
30                   pursuant to regulation adopted by the Department  
31                   and such regulations provide methods and standards  
32                   by which the Department will utilize its authority  
33                   under Section 404 of this Act;

34           and by deducting from the total so obtained the sum of the  
35           following amounts:

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

5 (H) In the case of a regulated investment company,  
6 an amount equal to the amount of exempt interest  
7 dividends as defined in subsection (b) (5) of Section  
8 852 of the Internal Revenue Code, paid to shareholders  
9 for the taxable year;

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

24 (J) An amount equal to all amounts included in such  
25 total which are exempt from taxation by this State  
26 either by reason of its statutes or Constitution or by  
27 reason of the Constitution, treaties or statutes of the  
28 United States; provided that, in the case of any  
29 statute of this State that exempts income derived from  
30 bonds or other obligations from the tax imposed under  
31 this Act, the amount exempted shall be the interest net  
32 of bond premium amortization;

33 (K) An amount equal to those dividends included in  
34 such total which were paid by a corporation which  
35 conducts business operations in an Enterprise Zone or  
36 zones created under the Illinois Enterprise Zone Act

1 and conducts substantially all of its operations in an  
2 Enterprise Zone or zones;

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

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

32 (M-1) For any taxpayer that is a financial  
33 organization within the meaning of Section 304(c) of  
34 this Act, an amount included in such total as interest  
35 income from a loan or loans made by such taxpayer to a  
36 borrower, to the extent that such a loan is secured by



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

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

29 (O) An amount equal to: (i) 85% for taxable years  
30 ending on or before December 31, 1992, or, a percentage  
31 equal to the percentage allowable under Section  
32 243(a)(1) of the Internal Revenue Code of 1986 for  
33 taxable years ending after December 31, 1992, of the  
34 amount by which dividends included in taxable income  
35 and received from a corporation that is not created or  
36 organized under the laws of the United States or any

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

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

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

29 (R) In the case of an attorney-in-fact with respect  
30 to whom an interinsurer or a reciprocal insurer has  
31 made the election under Section 835 of the Internal  
32 Revenue Code, 26 U.S.C. 835, an amount equal to the  
33 excess, if any, of the amounts paid or incurred by that  
34 interinsurer or reciprocal insurer in the taxable year  
35 to the attorney-in-fact over the deduction allowed to  
36 that interinsurer or reciprocal insurer with respect

1 to the attorney-in-fact under Section 835(b) of the  
2 Internal Revenue Code for the taxable year;

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

13 (T) For taxable years 2001 and thereafter, for the  
14 taxable year in which the bonus depreciation deduction  
15 ~~(30% of the adjusted basis of the qualified property)~~  
16 is taken on the taxpayer's federal income tax return  
17 under subsection (k) of Section 168 of the Internal  
18 Revenue Code and for each applicable taxable year  
19 thereafter, an amount equal to "x", where:

20 (1) "y" equals the amount of the depreciation  
21 deduction taken for the taxable year on the  
22 taxpayer's federal income tax return on property  
23 for which the bonus depreciation deduction ~~(30% of~~  
24 ~~the adjusted basis of the qualified property)~~ was  
25 taken in any year under subsection (k) of Section  
26 168 of the Internal Revenue Code, but not including  
27 the bonus depreciation deduction; and

28 (2) for property on which a bonus depreciation  
29 deduction of 30% of the adjusted basis was taken,  
30 "x" equals "y" multiplied by 30 and then divided by  
31 70 (or "y" multiplied by 0.429), and for property  
32 on which a bonus depreciation deduction of 50% of  
33 the adjusted basis was taken, "x" equals "y"  
34 multiplied by 1.0.

35 The aggregate amount deducted under this  
36 subparagraph in all taxable years for any one piece of

1 property may not exceed the amount of the bonus  
2 depreciation deduction ~~(30% of the adjusted basis of~~  
3 ~~the qualified property)~~ taken on that property on the  
4 taxpayer's federal income tax return under subsection  
5 (k) of Section 168 of the Internal Revenue Code;

6 (U) If the taxpayer reports a capital gain or loss  
7 on the taxpayer's federal income tax return for the  
8 taxable year based on a sale or transfer of property  
9 for which the taxpayer was required in any taxable year  
10 to make an addition modification under subparagraph  
11 (E-10), then an amount equal to that addition  
12 modification.

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

16 (V) The amount of: (i) any interest income (net of  
17 the deductions allocable thereto) taken into account  
18 for the taxable year with respect to a transaction with  
19 a taxpayer that is required to make an addition  
20 modification with respect to such transaction under  
21 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
22 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
23 the amount of such addition modification and (ii) any  
24 income from intangible property (net of the deductions  
25 allocable thereto) taken into account for the taxable  
26 year with respect to a transaction with a taxpayer that  
27 is required to make an addition modification with  
28 respect to such transaction under Section  
29 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
30 203(d)(2)(D-8), but not to exceed the amount of such  
31 addition modification;

32 (W) An amount equal to the interest income taken  
33 into account for the taxable year (net of the  
34 deductions allocable thereto) with respect to  
35 transactions with a foreign person who would be a  
36 member of the taxpayer's unitary business group but for

1 the fact that the foreign person's business activity  
2 outside the United States is 80% or more of that  
3 person's total business activity, but not to exceed the  
4 addition modification required to be made for the same  
5 taxable year under Section 203(b)(2)(E-12) for  
6 interest paid, accrued, or incurred, directly or  
7 indirectly, to the same foreign person; and

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

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

25 (c) Trusts and estates.

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

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

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

1 in the computation of taxable income;

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

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

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

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

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

33 (ii) the addition modification relating to the  
34 net operating loss carried back or forward to the  
35 taxable year from any taxable year ending prior to  
36 December 31, 1986 shall not exceed the amount of

1           such carryback or carryforward;

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

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

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

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

24           (G-10) For taxable years 2001 and thereafter, an  
25 amount equal to the bonus depreciation deduction ~~+(30%~~  
26 ~~of the adjusted basis of the qualified property)~~ taken  
27 on the taxpayer's federal income tax return for the  
28 taxable year under subsection (k) of Section 168 of the  
29 Internal Revenue Code; and

30           (G-11) If the taxpayer reports a capital gain or  
31 loss on the taxpayer's federal income tax return for  
32 the taxable year based on a sale or transfer of  
33 property for which the taxpayer was required in any  
34 taxable year to make an addition modification under  
35 subparagraph (G-10), then an amount equal to the  
36 aggregate amount of the deductions taken in all taxable

1 years under subparagraph (R) with respect to that  
2 property.

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

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

26 This paragraph shall not apply to the following:

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

33 (ii) an item of interest paid, accrued, or  
34 incurred, directly or indirectly, to a foreign  
35 person if the taxpayer can establish, based on a  
36 preponderance of the evidence, both of the



1 following:

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

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

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

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

27 Nothing in this subsection shall preclude the  
28 Director from making any other adjustment  
29 otherwise allowed under Section 404 of this Act for  
30 any tax year beginning after the effective date of  
31 this amendment provided such adjustment is made  
32 pursuant to regulation adopted by the Department  
33 and such regulations provide methods and standards  
34 by which the Department will utilize its authority  
35 under Section 404 of this Act;

36 (G-13) For taxable years ending on or after

1 December 31, 2004, an amount equal to the amount of  
2 intangible expenses and costs otherwise allowed as a  
3 deduction in computing base income, and that were paid,  
4 accrued, or incurred, directly or indirectly, 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. The addition modification required by this  
10 subparagraph shall be reduced to the extent that  
11 dividends were included in base income of the unitary  
12 group for the same taxable year and received by the  
13 taxpayer or by a member of the taxpayer's unitary  
14 business group (including amounts included in gross  
15 income pursuant to Sections 951 through 964 of the  
16 Internal Revenue Code and amounts included in gross  
17 income under Section 78 of the Internal Revenue Code)  
18 with respect to the stock of the same person to whom  
19 the intangible expenses and costs were directly or  
20 indirectly paid, incurred, or accrued. The preceding  
21 sentence shall not apply to the extent that the same  
22 dividends caused a reduction to the addition  
23 modification required under Section 203(c)(2)(G-12) of  
24 this Act. As used in this subparagraph, the term  
25 "intangible expenses and costs" includes: (1)  
26 expenses, losses, and costs for or related to the  
27 direct or indirect acquisition, use, maintenance or  
28 management, ownership, sale, exchange, or any other  
29 disposition of intangible property; (2) losses  
30 incurred, directly or indirectly, from factoring  
31 transactions or discounting transactions; (3) royalty,  
32 patent, technical, and copyright fees; (4) licensing  
33 fees; and (5) other similar expenses and costs. For  
34 purposes of this subparagraph, "intangible property"  
35 includes patents, patent applications, trade names,  
36 trademarks, service marks, copyrights, mask works,

1 trade secrets, and similar types of intangible assets.

2 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) any item of intangible expense or cost  
27 paid, accrued, or incurred, directly or  
28 indirectly, from a transaction with a foreign  
29 person if the taxpayer establishes by clear and  
30 convincing evidence, that the adjustments are  
31 unreasonable; or if the taxpayer and the Director  
32 agree in writing to the application or use of an  
33 alternative method of apportionment under Section  
34 304(f);

35 Nothing in this subsection shall preclude the  
36 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 and by deducting from the total so obtained the sum of the  
9 following amounts:

10 (H) 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 (I) The valuation limitation amount;

22 (J) 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 (K) An amount equal to all amounts included in  
26 taxable income as modified by subparagraphs (A), (B),  
27 (C), (D), (E), (F) and (G) which are exempt from  
28 taxation by this State either by reason of its statutes  
29 or Constitution or by reason of the Constitution,  
30 treaties or statutes of the United States; provided  
31 that, in the case of any statute of this State that  
32 exempts income derived from bonds or other obligations  
33 from the tax imposed under this Act, the amount  
34 exempted shall be the interest net of bond premium  
35 amortization;

36 (L) With the exception of any amounts subtracted

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

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

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

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

31 (P) An amount equal to the amount of the deduction  
32 used to compute the federal income tax credit for  
33 restoration of substantial amounts held under claim of  
34 right for the taxable year pursuant to Section 1341 of  
35 the Internal Revenue Code of 1986;

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

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

33 (R) For taxable years 2001 and thereafter, for the  
34 taxable year in which the bonus depreciation deduction  
35 ~~(30% of the adjusted basis of the qualified property)~~  
36 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal  
2 Revenue Code and for each applicable taxable year  
3 thereafter, an amount equal to "x", where:

4 (1) "y" equals the amount of the depreciation  
5 deduction taken for the taxable year on the  
6 taxpayer's federal income tax return on property  
7 for which the bonus depreciation deduction ~~(30% of~~  
8 ~~the adjusted basis of the qualified property)~~ 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; and

12 (2) for property on which a bonus depreciation  
13 deduction of 30% of the adjusted basis was taken,  
14 "x" equals "y" multiplied by 30 and then divided by  
15 70 (or "y" multiplied by 0.429), and for property  
16 on which a bonus depreciation deduction of 50% of  
17 the adjusted basis was taken, "x" equals "y"  
18 multiplied by 1.0.

19 The aggregate amount deducted under this  
20 subparagraph in all taxable years for any one piece of  
21 property may not exceed the amount of the bonus  
22 depreciation deduction ~~(30% of the adjusted basis of~~  
23 ~~the qualified property)~~ taken on that property on the  
24 taxpayer's federal income tax return under subsection  
25 (k) of Section 168 of the Internal Revenue Code;

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

33 The taxpayer is allowed to take the deduction under  
34 this subparagraph only once with respect to any one  
35 piece of property;

36 (T) 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 and (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;

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

28 (V) An amount equal to the income from intangible  
29 property taken into account for the taxable year (net  
30 of the deductions allocable thereto) with respect to  
31 transactions with a foreign person who would be a  
32 member of the taxpayer's unitary business group but for  
33 the fact that the foreign person's business activity  
34 outside the United States is 80% or more of that  
35 person's total business activity, but not to exceed the  
36 addition modification required to be made for the same



1 taxable year under Section 203(c)(2)(G-13) for  
2 intangible expenses and costs paid, accrued, or  
3 incurred, directly or indirectly, to the same foreign  
4 person.

5 (3) Limitation. The amount of any modification  
6 otherwise required under this subsection shall, under  
7 regulations prescribed by the Department, be adjusted by  
8 any amounts included therein which were properly paid,  
9 credited, or required to be distributed, or permanently set  
10 aside for charitable purposes pursuant to Internal Revenue  
11 Code Section 642(c) during the taxable year.

12 (d) Partnerships.

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

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

19 (A) An amount equal to all amounts paid or accrued  
20 to the taxpayer as interest or dividends during the  
21 taxable year to the extent excluded from gross income  
22 in the computation of taxable income;

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

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

29 (D) An amount equal to the amount of the capital  
30 gain deduction allowable under the Internal Revenue  
31 Code, to the extent deducted from gross income in the  
32 computation of taxable income;

33 (D-5) For taxable years 2001 and thereafter, an  
34 amount equal to the bonus depreciation deduction ~~(30%~~  
35 ~~of the adjusted basis of the qualified property)~~ taken

1 on the taxpayer's federal income tax return for the  
2 taxable year under subsection (k) of Section 168 of the  
3 Internal Revenue Code;

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

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

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

35 This paragraph shall not apply to the following:

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

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

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

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

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

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

28 (iv) an item of interest paid, accrued, or  
29 incurred, directly or indirectly, to a foreign  
30 person if the taxpayer establishes by clear and  
31 convincing evidence that the adjustments are  
32 unreasonable; or if the taxpayer and the Director  
33 agree in writing to the application or use of an  
34 alternative method of apportionment under Section  
35 304(f).

36 Nothing in this subsection shall preclude the

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

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

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

11 This paragraph shall not apply to the following:

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

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

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

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

35 (iii) any item of intangible expense or cost  
36 paid, accrued, or incurred, directly or

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

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

17 and by deducting from the total so obtained the following  
18 amounts:

19 (E) The valuation limitation amount;

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

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

33 (H) Any income of the partnership which  
34 constitutes personal service income as defined in  
35 Section 1348 (b) (1) of the Internal Revenue Code (as  
36 in effect December 31, 1981) or a reasonable allowance

1 for compensation paid or accrued for services rendered  
2 by partners to the partnership, whichever is greater;

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

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

23 (K) An amount equal to those dividends included in  
24 such total which were paid by a corporation which  
25 conducts business operations in an Enterprise Zone or  
26 zones created under the Illinois Enterprise Zone Act,  
27 enacted by the 82nd General Assembly, and conducts  
28 substantially all of its operations in an Enterprise  
29 Zone or Zones;

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

33 (M) An amount equal to those dividends included in  
34 such total that were paid by a corporation that  
35 conducts business operations in a federally designated  
36 Foreign Trade Zone or Sub-Zone and that is designated a

1 High Impact Business located in Illinois; provided  
2 that dividends eligible for the deduction provided in  
3 subparagraph (K) of paragraph (2) of this subsection  
4 shall not be eligible for the deduction provided under  
5 this subparagraph (M);

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

11 (O) For taxable years 2001 and thereafter, for the  
12 taxable year in which the bonus depreciation deduction  
13 ~~(30% of the adjusted basis of the qualified property)~~  
14 is taken on the taxpayer's federal income tax return  
15 under subsection (k) of Section 168 of the Internal  
16 Revenue Code and for each applicable taxable year  
17 thereafter, an amount equal to "x", where:

18 (1) "y" equals the amount of the depreciation  
19 deduction taken for the taxable year on the  
20 taxpayer's federal income tax return on property  
21 for which the bonus depreciation deduction ~~(30% of~~  
22 ~~the adjusted basis of the qualified property)~~ was  
23 taken in any year under subsection (k) of Section  
24 168 of the Internal Revenue Code, but not including  
25 the bonus depreciation deduction; and

26 (2) for property on which a bonus depreciation  
27 deduction of 30% of the adjusted basis was taken,  
28 "x" equals "y" multiplied by 30 and then divided by  
29 70 (or "y" multiplied by 0.429), and for property  
30 on which a bonus depreciation deduction of 50% of  
31 the adjusted basis was taken, "x" equals "y"  
32 multiplied by 1.0.

33 The aggregate amount deducted under this  
34 subparagraph in all taxable years for any one piece of  
35 property may not exceed the amount of the bonus  
36 depreciation deduction ~~(30% of the adjusted basis of~~



1 ~~the qualified property~~ taken on that property on the  
2 taxpayer's federal income tax return under subsection  
3 (k) of Section 168 of the Internal Revenue Code;

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

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

14 (Q) The amount of (i) any interest income (net of  
15 the deductions allocable thereto) taken into account  
16 for the taxable year with respect to a transaction with  
17 a taxpayer that is required to make an addition  
18 modification with respect to such transaction under  
19 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
20 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
21 the amount of such addition modification and (ii) any  
22 income from intangible property (net of the deductions  
23 allocable thereto) taken into account for the taxable  
24 year with respect to a transaction with a taxpayer that  
25 is required to make an addition modification with  
26 respect to such transaction under Section  
27 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
28 203(d)(2)(D-8), but not to exceed the amount of such  
29 addition modification;

30 (R) An amount equal to the interest income taken  
31 into account for the taxable year (net of the  
32 deductions allocable thereto) with respect to  
33 transactions with a foreign person who would be a  
34 member of the taxpayer's unitary business group but for  
35 the fact that the foreign person's business activity  
36 outside the United States is 80% or more of that

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

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

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

20 (1) In general. Subject to the provisions of paragraph  
21 (2) and subsection (b) (3), for purposes of this Section  
22 and Section 803(e), a taxpayer's gross income, adjusted  
23 gross income, or taxable income for the taxable year shall  
24 mean the amount of gross income, adjusted gross income or  
25 taxable income properly reportable for federal income tax  
26 purposes for the taxable year under the provisions of the  
27 Internal Revenue Code. Taxable income may be less than  
28 zero. However, for taxable years ending on or after  
29 December 31, 1986, net operating loss carryforwards from  
30 taxable years ending prior to December 31, 1986, may not  
31 exceed the sum of federal taxable income for the taxable  
32 year before net operating loss deduction, plus the excess  
33 of addition modifications over subtraction modifications  
34 for the taxable year. For taxable years ending prior to  
35 December 31, 1986, taxable income may never be an amount in

1 excess of the net operating loss for the taxable year as  
2 defined in subsections (c) and (d) of Section 172 of the  
3 Internal Revenue Code, provided that when taxable income of  
4 a corporation (other than a Subchapter S corporation),  
5 trust, or estate is less than zero and addition  
6 modifications, other than those provided by subparagraph  
7 (E) of paragraph (2) of subsection (b) for corporations or  
8 subparagraph (E) of paragraph (2) of subsection (c) for  
9 trusts and estates, exceed subtraction modifications, an  
10 addition modification must be made under those  
11 subparagraphs for any other taxable year to which the  
12 taxable income less than zero (net operating loss) is  
13 applied under Section 172 of the Internal Revenue Code or  
14 under subparagraph (E) of paragraph (2) of this subsection  
15 (e) applied in conjunction with Section 172 of the Internal  
16 Revenue Code.

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

20 (A) Certain life insurance companies. In the case  
21 of a life insurance company subject to the tax imposed  
22 by Section 801 of the Internal Revenue Code, life  
23 insurance company taxable income, plus the amount of  
24 distribution from pre-1984 policyholder surplus  
25 accounts as calculated under Section 815a of the  
26 Internal Revenue Code;

27 (B) Certain other insurance companies. In the case  
28 of mutual insurance companies subject to the tax  
29 imposed by Section 831 of the Internal Revenue Code,  
30 insurance company taxable income;

31 (C) Regulated investment companies. In the case of  
32 a regulated investment company subject to the tax  
33 imposed by Section 852 of the Internal Revenue Code,  
34 investment company taxable income;

35 (D) Real estate investment trusts. In the case of a  
36 real estate investment trust subject to the tax imposed

1 by Section 857 of the Internal Revenue Code, real  
2 estate investment trust taxable income;

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

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

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

36 (H) Partnerships. In the case of a partnership,

1 taxable income determined in accordance with Section  
2 703 of the Internal Revenue Code, except that taxable  
3 income shall take into account those items which are  
4 required by Section 703(a)(1) to be separately stated  
5 but which would be taken into account by an individual  
6 in calculating his taxable income.

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

24 (f) Valuation limitation amount.

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

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

33 (B) The lesser of (i) the sum of the pre-August 1,  
34 1969 appreciation amounts (to the extent consisting of  
35 capital gain) for all property in respect of which such  
36 gain was reported for federal income tax purposes for

1 the taxable year, or (ii) the net capital gain for the  
2 taxable year, reduced in either case by any amount of  
3 such gain included in the amount determined under  
4 subsection (a) (2) (F) or (c) (2) (H).

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

6 (A) If the fair market value of property referred  
7 to in paragraph (1) was readily ascertainable on August  
8 1, 1969, the pre-August 1, 1969 appreciation amount for  
9 such property is the lesser of (i) the excess of such  
10 fair market value over the taxpayer's basis (for  
11 determining gain) for such property on that date  
12 (determined under the Internal Revenue Code as in  
13 effect on that date), or (ii) the total gain realized  
14 and reportable for federal income tax purposes in  
15 respect of the sale, exchange or other disposition of  
16 such property.

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

28 (C) The Department shall prescribe such  
29 regulations as may be necessary to carry out the  
30 purposes of this paragraph.

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

34 (h) Legislative intention. Except as expressly provided by

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

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

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.