



Sen. Don Harmon

Filed: 5/13/2005

09400HB0709sam003

LRB094 08094 BDD 46541 a

1 AMENDMENT TO HOUSE BILL 709

2 AMENDMENT NO. _____. Amend House Bill 709, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

7 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

8 Sec. 203. Base income defined.

9 (a) Individuals.

10 (1) In general. In the case of an individual, base
11 income means an amount equal to the taxpayer's adjusted
12 gross income for the taxable year as modified by paragraph
13 (2).

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

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

24 (B) An amount equal to the amount of tax imposed by

1 this Act to the extent deducted from gross income in
2 the computation of adjusted gross income for the
3 taxable year;

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

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

20 (D-5) An amount, to the extent not included in
21 adjusted gross income, equal to the amount of money
22 withdrawn by the taxpayer in the taxable year from a
23 medical care savings account and the interest earned on
24 the account in the taxable year of a withdrawal
25 pursuant to subsection (b) of Section 20 of the Medical
26 Care Savings Account Act or subsection (b) of Section
27 20 of the Medical Care Savings Account Act of 2000;

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

33 (D-15) For taxable years 2001 and thereafter, an
34 amount equal to the bonus depreciation deduction ~~(30%~~

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

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

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

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

1 whom the interest was paid, accrued, or incurred.

2 This paragraph shall not apply to the following:

3 (i) an item of interest paid, accrued, or
4 incurred, directly or indirectly, to 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 interest; or

9 (ii) an item of interest paid, accrued, or
10 incurred, directly or indirectly, to a foreign
11 person if the taxpayer can establish, based on a
12 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 interest to a person that is not a related
17 member, and

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

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

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

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

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

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

1 apply to the extent that the same dividends caused a
2 reduction to the addition modification required under
3 Section 203(a)(2)(D-17) of this Act. As used in this
4 subparagraph, the term "intangible expenses and costs"
5 includes (1) expenses, losses, and costs for, or
6 related to, the direct or indirect acquisition, use,
7 maintenance or management, ownership, sale, exchange,
8 or any other disposition of intangible property; (2)
9 losses incurred, directly or indirectly, from
10 factoring transactions or discounting transactions;
11 (3) royalty, patent, technical, and copyright fees;
12 (4) licensing fees; and (5) other similar expenses and
13 costs. For purposes of this subparagraph, "intangible
14 property" includes patents, patent applications, trade
15 names, trademarks, service marks, copyrights, mask
16 works, trade secrets, and similar types of intangible
17 assets.

18 This paragraph shall not apply to the following:

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

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

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

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

8 (iii) any item of intangible expense or cost
9 paid, accrued, or incurred, directly or
10 indirectly, from a transaction with 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 (D-20) For taxable years beginning on or after
27 January 1, 2002, in the case of a distribution from a
28 qualified tuition program under Section 529 of the
29 Internal Revenue Code, other than (i) a distribution
30 from a College Savings Pool created under Section 16.5
31 of the State Treasurer Act or (ii) a distribution from
32 the Illinois Prepaid Tuition Trust Fund, an amount
33 equal to the amount excluded from gross income under
34 Section 529(c)(3)(B);

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

3 (E) For taxable years ending before December 31,
4 2001, any amount included in such total in respect of
5 any compensation (including but not limited to any
6 compensation paid or accrued to a serviceman while a
7 prisoner of war or missing in action) paid to a
8 resident by reason of being on active duty in the Armed
9 Forces of the United States and in respect of any
10 compensation paid or accrued to a resident who as a
11 governmental employee was a prisoner of war or missing
12 in action, and in respect of any compensation paid to a
13 resident in 1971 or thereafter for annual training
14 performed pursuant to Sections 502 and 503, Title 32,
15 United States Code as a member of the Illinois National
16 Guard. For taxable years ending on or after December
17 31, 2001, any amount included in such total in respect
18 of any compensation (including but not limited to any
19 compensation paid or accrued to a serviceman while a
20 prisoner of war or missing in action) paid to a
21 resident by reason of being a member of any component
22 of the Armed Forces of the United States and in respect
23 of any compensation paid or accrued to a resident who
24 as a governmental employee was a prisoner of war or
25 missing in action, and in respect of any compensation
26 paid to a resident in 2001 or thereafter by reason of
27 being a member of the Illinois National Guard. The
28 provisions of this amendatory Act of the 92nd General
29 Assembly are exempt from the provisions of Section 250;

30 (F) An amount equal to all amounts included in such
31 total pursuant to the provisions of Sections 402(a),
32 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
33 Internal Revenue Code, or included in such total as
34 distributions under the provisions of any retirement

1 or disability plan for employees of any governmental
2 agency or unit, or retirement payments to retired
3 partners, which payments are excluded in computing net
4 earnings from self employment by Section 1402 of the
5 Internal Revenue Code and regulations adopted pursuant
6 thereto;

7 (G) The valuation limitation amount;

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

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

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

22 (K) 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 (J) of paragraph (2) of this subsection
29 shall not be eligible for the deduction provided under
30 this subparagraph (K);

31 (L) For taxable years ending after December 31,
32 1983, an amount equal to all social security benefits
33 and railroad retirement benefits included in such
34 total pursuant to Sections 72(r) and 86 of the Internal

1 Revenue Code;

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

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

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

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

32 (Q) An amount equal to any amounts included in such
33 total, received by the taxpayer as an acceleration in
34 the payment of life, endowment or annuity benefits in

1 advance of the time they would otherwise be payable as
2 an indemnity for a terminal illness;

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

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

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

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

26 (V) Beginning with tax years ending on or after
27 December 31, 1995 and ending with tax years ending on
28 or before December 31, 2004, an amount equal to the
29 amount paid by a taxpayer who is a self-employed
30 taxpayer, a partner of a partnership, or a shareholder
31 in a Subchapter S corporation for health insurance or
32 long-term care insurance for that taxpayer or that
33 taxpayer's spouse or dependents, to the extent that the
34 amount paid for that health insurance or long-term care

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

19 (W) For taxable years beginning on or after January
20 1, 1998, all amounts included in the taxpayer's federal
21 gross income in the taxable year from amounts converted
22 from a regular IRA to a Roth IRA. This paragraph is
23 exempt from the provisions of Section 250;

24 (X) For taxable year 1999 and thereafter, an amount
25 equal to the amount of any (i) distributions, to the
26 extent includible in gross income for federal income
27 tax purposes, made to the taxpayer because of his or
28 her status as a victim of persecution for racial or
29 religious reasons by Nazi Germany or any other Axis
30 regime or as an heir of the victim and (ii) items of
31 income, to the extent includible in gross income for
32 federal income tax purposes, attributable to, derived
33 from or in any way related to assets stolen from,
34 hidden from, or otherwise lost to a victim of

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

23 (Y) For taxable years beginning on or after January
24 1, 2002 and ending on or before December 31, 2004,
25 moneys contributed in the taxable year to a College
26 Savings Pool account under Section 16.5 of the State
27 Treasurer Act, except that amounts excluded from gross
28 income under Section 529(c)(3)(C)(i) of the Internal
29 Revenue Code shall not be considered moneys
30 contributed under this subparagraph (Y). For taxable
31 years beginning on or after January 1, 2005, a maximum
32 of \$10,000 contributed in the taxable year to (i) a
33 College Savings Pool account under Section 16.5 of the
34 State Treasurer Act or (ii) the Illinois Prepaid

1 Tuition Trust Fund, except that amounts excluded from
2 gross income under Section 529(c)(3)(C)(i) of the
3 Internal Revenue Code shall not be considered moneys
4 contributed under this subparagraph (Y). This
5 subparagraph (Y) is exempt from the provisions of
6 Section 250;

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

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

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

29 The aggregate amount deducted under this
30 subparagraph in all taxable years for any one piece of
31 property may not exceed the amount of the bonus
32 depreciation deduction ~~(30% of the adjusted basis of~~
33 ~~the qualified property)~~ taken on that property on the
34 taxpayer's federal income tax return under subsection

1 (k) of Section 168 of the Internal Revenue Code;

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

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

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

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

31 (DD) An amount equal to the interest income taken
32 into account for the taxable year (net of the
33 deductions allocable thereto) with respect to
34 transactions with a foreign person who would be a

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

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

22 (b) Corporations.

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

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

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

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

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

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

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

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

1 income of an earlier taxable year, and

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

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

14 (E-5) For taxable years ending after December 31,
15 1997, an amount equal to any eligible remediation costs
16 that the corporation deducted in computing adjusted
17 gross income and for which the corporation claims a
18 credit under subsection (l) of Section 201;

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

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

34 The taxpayer is required to make the addition

1 modification under this subparagraph only once with
2 respect to any one piece of property;

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

23 This paragraph shall not apply to the following:

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

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

1 (E-13) For taxable years ending on or after
2 December 31, 2004, an amount equal to the amount of
3 intangible expenses and costs otherwise allowed as a
4 deduction in computing base income, and that were paid,
5 accrued, or incurred, directly or indirectly, to a
6 foreign person who would be a member of the same
7 unitary business group but for the fact that the
8 foreign person's business activity outside the United
9 States is 80% or more of that person's total business
10 activity. The addition modification required by this
11 subparagraph shall be reduced to the extent that
12 dividends were included in base income of the unitary
13 group for the same taxable year and received by the
14 taxpayer or by a member of the taxpayer's unitary
15 business group (including amounts included in gross
16 income pursuant to Sections 951 through 964 of the
17 Internal Revenue Code and amounts included in gross
18 income under Section 78 of the Internal Revenue Code)
19 with respect to the stock of the same person to whom
20 the intangible expenses and costs were directly or
21 indirectly paid, incurred, or accrued. The preceding
22 sentence shall not apply to the extent that the same
23 dividends caused a reduction to the addition
24 modification required under Section 203(b)(2)(E-12) of
25 this Act. As used in this subparagraph, the term
26 "intangible expenses and costs" includes (1) expenses,
27 losses, and costs for, or related to, the direct or
28 indirect acquisition, use, maintenance or management,
29 ownership, sale, exchange, or any other disposition of
30 intangible property; (2) losses incurred, directly or
31 indirectly, from factoring transactions or discounting
32 transactions; (3) royalty, patent, technical, and
33 copyright fees; (4) licensing fees; and (5) other
34 similar expenses and costs. For purposes of this

1 subparagraph, "intangible property" includes patents,
2 patent applications, trade names, trademarks, service
3 marks, copyrights, mask works, trade secrets, and
4 similar types of intangible assets.

5 This paragraph shall not apply to the following:

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

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

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

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

29 (iii) any item of intangible expense or cost
30 paid, accrued, or incurred, directly or
31 indirectly, from a transaction with a foreign
32 person if the taxpayer establishes by clear and
33 convincing evidence, that the adjustments are
34 unreasonable; or if the taxpayer and the Director

1 agree in writing to the application or use of an
2 alternative method of apportionment under Section
3 304(f);

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

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

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

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

20 (H) In the case of a regulated investment company,
21 an amount equal to the amount of exempt interest
22 dividends as defined in subsection (b) (5) of Section
23 852 of the Internal Revenue Code, paid to shareholders
24 for the taxable year;

25 (I) With the exception of any amounts subtracted
26 under subparagraph (J), an amount equal to the sum of
27 all amounts disallowed as deductions by (i) Sections
28 171(a) (2), and 265(a) (2) and amounts disallowed as
29 interest expense by Section 291(a) (3) of the Internal
30 Revenue Code, as now or hereafter amended, and all
31 amounts of expenses allocable to interest and
32 disallowed as deductions by Section 265(a) (1) of the
33 Internal Revenue Code, as now or hereafter amended; and
34 (ii) for taxable years ending on or after August 13,

1 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
2 832(b)(5)(B)(i) of the Internal Revenue Code; the
3 provisions of this subparagraph are exempt from the
4 provisions of Section 250;

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

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

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

29 (M) For any taxpayer that is a financial
30 organization within the meaning of Section 304(c) of
31 this Act, an amount included in such total as interest
32 income from a loan or loans made by such taxpayer to a
33 borrower, to the extent that such a loan is secured by
34 property which is eligible for the Enterprise Zone

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

15 (M-1) For any taxpayer that is a financial
16 organization within the meaning of Section 304(c) of
17 this Act, an amount included in such total as interest
18 income from a loan or loans made by such taxpayer to a
19 borrower, to the extent that such a loan is secured by
20 property which is eligible for the High Impact Business
21 Investment Credit. To determine the portion of a loan
22 or loans that is secured by property eligible for a
23 Section 201(h) investment credit to the borrower, the
24 entire principal amount of the loan or loans between
25 the taxpayer and the borrower should be divided into
26 the basis of the Section 201(h) investment credit
27 property which secures the loan or loans, using for
28 this purpose the original basis of such property on the
29 date that it was placed in service in a federally
30 designated Foreign Trade Zone or Sub-Zone located in
31 Illinois. No taxpayer that is eligible for the
32 deduction provided in subparagraph (M) of paragraph
33 (2) of this subsection shall be eligible for the
34 deduction provided under this subparagraph (M-1). The

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

6 (N) Two times any contribution made during the
7 taxable year to a designated zone organization to the
8 extent that the contribution (i) qualifies as a
9 charitable contribution under subsection (c) of
10 Section 170 of the Internal Revenue Code and (ii) must,
11 by its terms, be used for a project approved by the
12 Department of Commerce and Economic Opportunity under
13 Section 11 of the Illinois Enterprise Zone Act;

14 (O) An amount equal to: (i) 85% for taxable years
15 ending on or before December 31, 1992, or, a percentage
16 equal to the percentage allowable under Section
17 243(a)(1) of the Internal Revenue Code of 1986 for
18 taxable years ending after December 31, 1992, of the
19 amount by which dividends included in taxable income
20 and received from a corporation that is not created or
21 organized under the laws of the United States or any
22 state or political subdivision thereof, including, for
23 taxable years ending on or after December 31, 1988,
24 dividends received or deemed received or paid or deemed
25 paid under Sections 951 through 964 of the Internal
26 Revenue Code, exceed the amount of the modification
27 provided under subparagraph (G) of paragraph (2) of
28 this subsection (b) which is related to such dividends;
29 plus (ii) 100% of the amount by which dividends,
30 included in taxable income and received, including,
31 for taxable years ending on or after December 31, 1988,
32 dividends received or deemed received or paid or deemed
33 paid under Sections 951 through 964 of the Internal
34 Revenue Code, from any such corporation specified in

1 clause (i) that would but for the provisions of Section
2 1504 (b) (3) of the Internal Revenue Code be treated as
3 a member of the affiliated group which includes the
4 dividend recipient, exceed the amount of the
5 modification provided under subparagraph (G) of
6 paragraph (2) of this subsection (b) which is related
7 to such dividends;

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

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

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

26 (S) For taxable years ending on or after December
27 31, 1997, in the case of a Subchapter S corporation, an
28 amount equal to all amounts of income allocable to a
29 shareholder subject to the Personal Property Tax
30 Replacement Income Tax imposed by subsections (c) and
31 (d) of Section 201 of this Act, including amounts
32 allocable to organizations exempt from federal income
33 tax by reason of Section 501(a) of the Internal Revenue
34 Code. This subparagraph (S) is exempt from the

1 provisions of Section 250;

2 (T) For taxable years 2001 and thereafter, for the
3 taxable year in which the bonus depreciation deduction
4 ~~(30% of the adjusted basis of the qualified property)~~
5 is taken on the taxpayer's federal income tax return
6 under subsection (k) of Section 168 of the Internal
7 Revenue Code and for each applicable taxable year
8 thereafter, an amount equal to "x", where:

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

17 (2) for property on which a bonus depreciation
18 deduction of 30% of the adjusted basis was taken,
19 "x" equals "y" multiplied by 30 and then divided by
20 70 (or "y" multiplied by 0.429), and for property
21 on which a bonus depreciation deduction of 50% of
22 the adjusted basis was taken, "x" equals "y"
23 multiplied by 1.0.

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

31 (U) If the taxpayer reports a capital gain or loss
32 on the taxpayer's federal income tax return for the
33 taxable year based on a sale or transfer of property
34 for which the taxpayer was required in any taxable year

1 to make an addition modification under subparagraph
2 (E-10), then an amount equal to that addition
3 modification.

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

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

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

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

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

18 (c) Trusts and estates.

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

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

26 (A) An amount equal to all amounts paid or accrued
27 to the taxpayer as interest or dividends during the
28 taxable year to the extent excluded from gross income
29 in the computation of taxable income;

30 (B) In the case of (i) an estate, \$600; (ii) a
31 trust which, under its governing instrument, is
32 required to distribute all of its income currently,
33 \$300; and (iii) any other trust, \$100, but in each such

1 case, only to the extent such amount was deducted in
2 the computation of taxable income;

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

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

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

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

28 (ii) the addition modification relating to the
29 net operating loss carried back or forward to the
30 taxable year from any taxable year ending prior to
31 December 31, 1986 shall not exceed the amount of
32 such carryback or carryforward;

33 For taxable years in which there is a net operating
34 loss carryback or carryforward from more than one other

1 taxable year ending prior to December 31, 1986, the
2 addition modification provided in this subparagraph
3 (E) shall be the sum of the amounts computed
4 independently under the preceding provisions of this
5 subparagraph (E) for each such taxable year;

6 (F) For taxable years ending on or after January 1,
7 1989, an amount equal to the tax deducted pursuant to
8 Section 164 of the Internal Revenue Code if the trust
9 or estate is claiming the same tax for purposes of the
10 Illinois foreign tax credit under Section 601 of this
11 Act;

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

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

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

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

1 property.

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

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

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

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

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

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

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

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

1 by which the Department will utilize its authority
2 under Section 404 of this Act;

3 (G-13) For taxable years ending on or after
4 December 31, 2004, an amount equal to the amount of
5 intangible expenses and costs otherwise allowed as a
6 deduction in computing base income, and that were paid,
7 accrued, or incurred, directly or indirectly, to a
8 foreign person who would be a member of the same
9 unitary business group but for the fact that the
10 foreign person's business activity outside the United
11 States is 80% or more of that person's total business
12 activity. The addition modification required by this
13 subparagraph shall be reduced to the extent that
14 dividends were included in base income of the unitary
15 group for the same taxable year and received by the
16 taxpayer or by a member of the taxpayer's unitary
17 business group (including amounts included in gross
18 income pursuant to Sections 951 through 964 of the
19 Internal Revenue Code and amounts included in gross
20 income under Section 78 of the Internal Revenue Code)
21 with respect to the stock of the same person to whom
22 the intangible expenses and costs were directly or
23 indirectly paid, incurred, or accrued. The preceding
24 sentence shall not apply to the extent that the same
25 dividends caused a reduction to the addition
26 modification required under Section 203(c)(2)(G-12) of
27 this Act. As used in this subparagraph, the term
28 "intangible expenses and costs" includes: (1)
29 expenses, losses, and costs for or related to the
30 direct or indirect acquisition, use, maintenance or
31 management, ownership, sale, exchange, or any other
32 disposition of intangible property; (2) losses
33 incurred, directly or indirectly, from factoring
34 transactions or discounting transactions; (3) royalty,

1 patent, technical, and copyright fees; (4) licensing
2 fees; and (5) other similar expenses and costs. For
3 purposes of this subparagraph, "intangible property"
4 includes patents, patent applications, trade names,
5 trademarks, service marks, copyrights, mask works,
6 trade secrets, and similar types of intangible assets.

7 This paragraph shall not apply to the following:

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

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

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

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

31 (iii) any item of intangible expense or cost
32 paid, accrued, or incurred, directly or
33 indirectly, from a transaction with a foreign
34 person if the taxpayer establishes by clear and

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

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

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

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

28 (I) The valuation limitation amount;

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

32 (K) An amount equal to all amounts included in
33 taxable income as modified by subparagraphs (A), (B),
34 (C), (D), (E), (F) and (G) which are exempt from

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

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

22 (M) An amount equal to those dividends included in
23 such total which were paid by a corporation which
24 conducts business operations in an Enterprise Zone or
25 zones created under the Illinois Enterprise Zone Act
26 and conducts substantially all of its operations in an
27 Enterprise Zone or Zones;

28 (N) An amount equal to any contribution made to a
29 job training project established pursuant to the Tax
30 Increment Allocation Redevelopment Act;

31 (O) An amount equal to those dividends included in
32 such total that were paid by a corporation that
33 conducts business operations in a federally designated
34 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 (M) of paragraph (2) of this subsection
4 shall not be eligible for the deduction provided under
5 this subparagraph (O);

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

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

10 (R) 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

1 depreciation deduction ~~(30% of the adjusted basis of~~
2 ~~the qualified property)~~ taken on that property on the
3 taxpayer's federal income tax return under subsection
4 (k) of Section 168 of the Internal Revenue Code;

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

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

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

31 (U) An amount equal to the interest income taken
32 into account for the taxable year (net of the
33 deductions allocable thereto) with respect to
34 transactions with a foreign person who would be a

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

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

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

29 (d) Partnerships.

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

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

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

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

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

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

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

17 (D-5) For taxable years 2001 and thereafter, an
18 amount equal to the bonus depreciation deduction ~~(30%~~
19 ~~of the adjusted basis of the qualified property)~~ taken
20 on the taxpayer's federal income tax return for the
21 taxable year under subsection (k) of Section 168 of the
22 Internal Revenue Code;

23 (D-6) If the taxpayer reports a capital gain or
24 loss on the taxpayer's federal income tax return for
25 the taxable year based on a sale or transfer of
26 property for which the taxpayer was required in any
27 taxable year to make an addition modification under
28 subparagraph (D-5), then an amount equal to the
29 aggregate amount of the deductions taken in all taxable
30 years under subparagraph (O) with respect to that
31 property.

32 The taxpayer is required to make the addition
33 modification under this subparagraph only once with
34 respect to any one piece of property;

1 (D-7) For taxable years ending on or after December
2 31, 2004, an amount equal to the amount otherwise
3 allowed as a deduction in computing base income for
4 interest paid, accrued, or incurred, directly or
5 indirectly, to a foreign person who would be a member
6 of the same unitary business group but for the fact the
7 foreign person's business activity outside the United
8 States is 80% or more of the foreign person's total
9 business activity. The addition modification required
10 by this subparagraph shall be reduced to the extent
11 that dividends were included in base income of the
12 unitary group for the same taxable year and received by
13 the 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 interest was paid, accrued, or incurred.

20 This paragraph shall not apply to the following:

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

27 (ii) an item of interest paid, accrued, or
28 incurred, directly or indirectly, to a foreign
29 person if the taxpayer can establish, based on a
30 preponderance of the evidence, both of the
31 following:

32 (a) the foreign person, during the same
33 taxable year, paid, accrued, or incurred, the
34 interest to a person that is not a related

1 member, and

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

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

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

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

32 (D-8) For taxable years ending on or after December
33 31, 2004, an amount equal to the amount of intangible
34 expenses and costs otherwise allowed as a deduction in

1 computing base income, and that were paid, accrued, or
2 incurred, directly or indirectly, to a foreign person
3 who would be a member of the same unitary business
4 group but for the fact that the foreign person's
5 business activity outside the United States is 80% or
6 more of that person's total business activity. The
7 addition modification required by this subparagraph
8 shall be reduced to the extent that dividends were
9 included in base income of the unitary group for the
10 same taxable year and received by the taxpayer or by a
11 member of the taxpayer's unitary business group
12 (including amounts included in gross income pursuant
13 to Sections 951 through 964 of the Internal Revenue
14 Code and amounts included in gross income under Section
15 78 of the Internal Revenue Code) with respect to the
16 stock of the same person to whom the intangible
17 expenses and costs were directly or indirectly paid,
18 incurred or accrued. The preceding sentence shall not
19 apply to the extent that the same dividends caused a
20 reduction to the addition modification required under
21 Section 203(d)(2)(D-7) of this Act. As used in this
22 subparagraph, the term "intangible expenses and costs"
23 includes (1) expenses, losses, and costs for, or
24 related to, the direct or indirect acquisition, use,
25 maintenance or management, ownership, sale, exchange,
26 or any other disposition of intangible property; (2)
27 losses incurred, directly or indirectly, from
28 factoring transactions or discounting transactions;
29 (3) royalty, patent, technical, and copyright fees;
30 (4) licensing fees; and (5) other similar expenses and
31 costs. For purposes of this subparagraph, "intangible
32 property" includes patents, patent applications, trade
33 names, trademarks, service marks, copyrights, mask
34 works, trade secrets, and similar types of intangible

1 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);

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

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

12 (E) The valuation limitation amount;

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

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

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

32 (I) An amount equal to all amounts of income
33 distributable to an entity subject to the Personal
34 Property Tax Replacement Income Tax imposed by

1 subsections (c) and (d) of Section 201 of this Act
2 including amounts distributable to organizations
3 exempt from federal income tax by reason of Section
4 501(a) of the Internal Revenue Code;

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

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

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

28 (M) An amount equal to those dividends included in
29 such total that were paid by a corporation that
30 conducts business operations in a federally designated
31 Foreign Trade Zone or Sub-Zone and that is designated a
32 High Impact Business located in Illinois; provided
33 that dividends eligible for the deduction provided in
34 subparagraph (K) of paragraph (2) of this subsection

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

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

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

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

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

30 The aggregate amount deducted under this
31 subparagraph in all taxable years for any one piece of
32 property may not exceed the amount of the bonus
33 depreciation deduction ~~(30% of the adjusted basis of~~
34 ~~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 (P) 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-5), 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 (Q) The amount of (i) any interest income (net of
14 the deductions allocable thereto) taken into account
15 for the taxable year with respect to a transaction with
16 a taxpayer that is required to make an addition
17 modification with respect to such transaction under
18 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
19 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
20 the amount of such addition modification and (ii) any
21 income from intangible property (net of the deductions
22 allocable thereto) taken into account for the taxable
23 year with respect to a transaction with a taxpayer that
24 is required to make an addition modification with
25 respect to such transaction under Section
26 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
27 203(d)(2)(D-8), but not to exceed the amount of such
28 addition modification;

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

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

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

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

21 (1) In general. Subject to the provisions of paragraph
22 (2) and subsection (b) (3), for purposes of this Section
23 and Section 803(e), a taxpayer's gross income, adjusted
24 gross income, or taxable income for the taxable year shall
25 mean the amount of gross income, adjusted gross income or
26 taxable income properly reportable for federal income tax
27 purposes for the taxable year under the provisions of the
28 Internal Revenue Code. Taxable income may be less than
29 zero. However, for taxable years ending on or after
30 December 31, 1986, net operating loss carryforwards from
31 taxable years ending prior to December 31, 1986, may not
32 exceed the sum of federal taxable income for the taxable
33 year before net operating loss deduction, plus the excess

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

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

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

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

34 (C) Regulated investment companies. In the case of

1 a regulated investment company subject to the tax
2 imposed by Section 852 of the Internal Revenue Code,
3 investment company taxable income;

4 (D) Real estate investment trusts. In the case of a
5 real estate investment trust subject to the tax imposed
6 by Section 857 of the Internal Revenue Code, real
7 estate investment trust taxable income;

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

20 (F) Cooperatives. In the case of a cooperative
21 corporation or association, the taxable income of such
22 organization determined in accordance with the
23 provisions of Section 1381 through 1388 of the Internal
24 Revenue Code;

25 (G) Subchapter S corporations. In the case of: (i)
26 a Subchapter S corporation for which there is in effect
27 an election for the taxable year under Section 1362 of
28 the Internal Revenue Code, the taxable income of such
29 corporation determined in accordance with Section
30 1363(b) of the Internal Revenue Code, except that
31 taxable income shall take into account those items
32 which are required by Section 1363(b)(1) of the
33 Internal Revenue Code to be separately stated; and (ii)
34 a Subchapter S corporation for which there is in effect

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

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

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

31 (f) Valuation limitation amount.

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

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

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

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

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

26 (B) If the fair market value of property referred
27 to in paragraph (1) was not readily ascertainable on
28 August 1, 1969, the pre-August 1, 1969 appreciation
29 amount for such property is that amount which bears the
30 same ratio to the total gain reported in respect of the
31 property for federal income tax purposes for the
32 taxable year, as the number of full calendar months in
33 that part of the taxpayer's holding period for the
34 property ending July 31, 1969 bears to the number of

1 full calendar months in the taxpayer's entire holding
2 period for the property.

3 (C) The Department shall prescribe such
4 regulations as may be necessary to carry out the
5 purposes of this paragraph.

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

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

18 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
19 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
20 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
21 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

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