



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3677

Introduced 02/24/05, by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5
35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Removes a provision that requires a taxpayer to add to federal adjusted gross income, to arrive at base income for Illinois income tax purposes, distributions from a qualified tuition program under Section 529 of the Internal Revenue Code other than distributions from the College Savings Pool or the Illinois Prepaid Tuition Program to the extent those distributions were excluded from income in arriving at federal adjusted gross income. Amends the State Treasurer Act and further amends the Illinois Income Tax Act to allow an income tax deduction for moneys contributed in the taxable year to the College Savings Pool, the Illinois Prepaid Tuition Program, or to any other qualified tuition program under Section 529 of the Internal Revenue Code (now, a \$10,000 maximum deduction is limited to contributions to the College Savings Pool or the Illinois Prepaid Tuition Program). Effective immediately.

LRB094 07472 BDD 37635 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning college savings.

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

4 Section 5. The State Treasurer Act is amended by changing
5 Section 16.5 as follows:

6 (15 ILCS 505/16.5)

7 Sec. 16.5. College Savings Pool. The State Treasurer may
8 establish and administer a College Savings Pool to supplement
9 and enhance the investment opportunities otherwise available
10 to persons seeking to finance the costs of higher education.
11 The State Treasurer, in administering the College Savings Pool,
12 may receive moneys paid into the pool by a participant and may
13 serve as the fiscal agent of that participant for the purpose
14 of holding and investing those moneys.

15 "Participant", as used in this Section, means any person
16 who makes investments in the pool. "Designated beneficiary", as
17 used in this Section, means any person on whose behalf an
18 account is established in the College Savings Pool by a
19 participant. Both in-state and out-of-state persons may be
20 participants and designated beneficiaries in the College
21 Savings Pool.

22 New accounts in the College Savings Pool shall be processed
23 through participating financial institutions. "Participating
24 financial institution", as used in this Section, means any
25 financial institution insured by the Federal Deposit Insurance
26 Corporation and lawfully doing business in the State of
27 Illinois and any credit union approved by the State Treasurer
28 and lawfully doing business in the State of Illinois that
29 agrees to process new accounts in the College Savings Pool.
30 Participating financial institutions may charge a processing
31 fee to participants to open an account in the pool that shall
32 not exceed \$30 until the year 2001. Beginning in 2001 and every

1 year thereafter, the maximum fee limit shall be adjusted by the
2 Treasurer based on the Consumer Price Index for the North
3 Central Region as published by the United States Department of
4 Labor, Bureau of Labor Statistics for the immediately preceding
5 calendar year. Every contribution received by a financial
6 institution for investment in the College Savings Pool shall be
7 transferred from the financial institution to a location
8 selected by the State Treasurer within one business day
9 following the day that the funds must be made available in
10 accordance with federal law. All communications from the State
11 Treasurer to participants shall reference the participating
12 financial institution at which the account was processed.

13 The Treasurer may invest the moneys in the College Savings
14 Pool in the same manner, in the same types of investments, and
15 subject to the same limitations provided for the investment of
16 moneys by the Illinois State Board of Investment. To enhance
17 the safety and liquidity of the College Savings Pool, to ensure
18 the diversification of the investment portfolio of the pool,
19 and in an effort to keep investment dollars in the State of
20 Illinois, the State Treasurer shall make a percentage of each
21 account available for investment in participating financial
22 institutions doing business in the State. The State Treasurer
23 shall deposit with the participating financial institution at
24 which the account was processed the following percentage of
25 each account at a prevailing rate offered by the institution,
26 provided that the deposit is federally insured or fully
27 collateralized and the institution accepts the deposit: 10% of
28 the total amount of each account for which the current age of
29 the beneficiary is less than 7 years of age, 20% of the total
30 amount of each account for which the beneficiary is at least 7
31 years of age and less than 12 years of age, and 50% of the total
32 amount of each account for which the current age of the
33 beneficiary is at least 12 years of age. The State Treasurer
34 shall adjust each account at least annually to ensure
35 compliance with this Section. The Treasurer shall develop,
36 publish, and implement an investment policy covering the

1 investment of the moneys in the College Savings Pool. The
2 policy shall be published (i) at least once each year in at
3 least one newspaper of general circulation in both Springfield
4 and Chicago and (ii) each year as part of the audit of the
5 College Savings Pool by the Auditor General, which shall be
6 distributed to all participants. The Treasurer shall notify all
7 participants in writing, and the Treasurer shall publish in a
8 newspaper of general circulation in both Chicago and
9 Springfield, any changes to the previously published
10 investment policy at least 30 calendar days before implementing
11 the policy. Any investment policy adopted by the Treasurer
12 shall be reviewed and updated if necessary within 90 days
13 following the date that the State Treasurer takes office.

14 Participants shall be required to use moneys distributed
15 from the College Savings Pool for qualified expenses at
16 eligible educational institutions. "Qualified expenses", as
17 used in this Section, means the following: (i) tuition, fees,
18 and the costs of books, supplies, and equipment required for
19 enrollment or attendance at an eligible educational
20 institution and (ii) certain room and board expenses incurred
21 while attending an eligible educational institution at least
22 half-time. "Eligible educational institutions", as used in
23 this Section, means public and private colleges, junior
24 colleges, graduate schools, and certain vocational
25 institutions that are described in Section 481 of the Higher
26 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to
27 participate in Department of Education student aid programs. A
28 student shall be considered to be enrolled at least half-time
29 if the student is enrolled for at least half the full-time
30 academic work load for the course of study the student is
31 pursuing as determined under the standards of the institution
32 at which the student is enrolled. Distributions made from the
33 pool for qualified expenses shall be made directly to the
34 eligible educational institution, directly to a vendor, or in
35 the form of a check payable to both the beneficiary and the
36 institution or vendor. Any moneys that are distributed in any

1 other manner or that are used for expenses other than qualified
2 expenses at an eligible educational institution shall be
3 subject to a penalty of 10% of the earnings unless the
4 beneficiary dies, becomes disabled, or receives a scholarship
5 that equals or exceeds the distribution. Penalties shall be
6 withheld at the time the distribution is made.

7 The Treasurer shall limit the contributions that may be
8 made on behalf of a designated beneficiary based on an
9 actuarial estimate of what is required to pay tuition, fees,
10 and room and board for 5 undergraduate years at the highest
11 cost eligible educational institution. The contributions made
12 on behalf of a beneficiary who is also a beneficiary under the
13 Illinois Prepaid Tuition Program shall be further restricted to
14 ensure that the contributions in both programs combined do not
15 exceed the limit established for the College Savings Pool. The
16 Treasurer shall provide the Illinois Student Assistance
17 Commission each year at a time designated by the Commission, an
18 electronic report of all participant accounts in the
19 Treasurer's College Savings Pool, listing total contributions
20 and disbursements from each individual account during the
21 previous calendar year. As soon thereafter as is possible
22 following receipt of the Treasurer's report, the Illinois
23 Student Assistance Commission shall, in turn, provide the
24 Treasurer with an electronic report listing those College
25 Savings Pool participants who also participate in the State's
26 prepaid tuition program, administered by the Commission. The
27 Commission shall be responsible for filing any combined tax
28 reports regarding State qualified savings programs required by
29 the United States Internal Revenue Service. The Treasurer shall
30 work with the Illinois Student Assistance Commission to
31 coordinate the marketing of the College Savings Pool and the
32 Illinois Prepaid Tuition Program when considered beneficial by
33 the Treasurer and the Director of the Illinois Student
34 Assistance Commission. The Treasurer's office shall not
35 publicize or otherwise market the College Savings Pool or
36 accept any moneys into the College Savings Pool prior to March

1 1, 2000. The Treasurer shall provide a separate accounting for
2 each designated beneficiary to each participant, the Illinois
3 Student Assistance Commission, and the participating financial
4 institution at which the account was processed. No interest in
5 the program may be pledged as security for a loan.

6 The assets of the College Savings Pool and its income and
7 operation shall be exempt from all taxation by the State of
8 Illinois and any of its subdivisions. The accrued earnings on
9 investments in the Pool once disbursed on behalf of a
10 designated beneficiary shall be similarly exempt from all
11 taxation by the State of Illinois and its subdivisions, so long
12 as they are used for qualified expenses. Contributions during
13 the taxable year to a College Savings Pool account or other
14 qualified tuition program under Section 529 of the Internal
15 Revenue Code (26 U.S.C. 529) ~~during the taxable year~~ may be
16 deducted from adjusted gross income as provided in Section 203
17 of the Illinois Income Tax Act. The provisions of this
18 paragraph are exempt from Section 250 of the Illinois Income
19 Tax Act.

20 The Treasurer shall adopt rules he or she considers
21 necessary for the efficient administration of the College
22 Savings Pool. The rules shall provide whatever additional
23 parameters and restrictions are necessary to ensure that the
24 College Savings Pool meets all of the requirements for a
25 qualified ~~state~~ tuition program under Section 529 of the
26 Internal Revenue Code (26 U.S.C. 529). The rules shall provide
27 for the administration expenses of the pool to be paid from its
28 earnings and for the investment earnings in excess of the
29 expenses and all moneys collected as penalties to be credited
30 or paid monthly to the several participants in the pool in a
31 manner which equitably reflects the differing amounts of their
32 respective investments in the pool and the differing periods of
33 time for which those amounts were in the custody of the pool.
34 Also, the rules shall require the maintenance of records that
35 enable the Treasurer's office to produce a report for each
36 account in the pool at least annually that documents the

1 account balance and investment earnings. Notice of any proposed
2 amendments to the rules and regulations shall be provided to
3 all participants prior to adoption. Amendments to rules and
4 regulations shall apply only to contributions made after the
5 adoption of the amendment.

6 Upon creating the College Savings Pool, the State Treasurer
7 shall give bond with 2 or more sufficient sureties, payable to
8 and for the benefit of the participants in the College Savings
9 Pool, in the penal sum of \$1,000,000, conditioned upon the
10 faithful discharge of his or her duties in relation to the
11 College Savings Pool.

12 (Source: P.A. 92-16, eff. 6-28-01; 92-439, eff. 8-17-01;
13 92-626, eff. 7-11-02; 93-812, eff. 1-1-05.)

14 Section 10. The Illinois Income Tax Act is amended by
15 changing Section 203 as follows:

16 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

17 Sec. 203. Base income defined.

18 (a) Individuals.

19 (1) In general. In the case of an individual, base
20 income means an amount equal to the taxpayer's adjusted
21 gross income for the taxable year as modified by paragraph
22 (2).

23 (2) Modifications. The adjusted gross income referred
24 to in paragraph (1) shall be modified by adding thereto the
25 sum of the 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 adjusted gross income, except
30 stock dividends of qualified public utilities
31 described in Section 305(e) of the Internal Revenue
32 Code;

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

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

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

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

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

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

32 (D-15) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction (30%
34 of the adjusted basis of the qualified property) taken
35 on the taxpayer's federal income tax return for the
36 taxable year under subsection (k) of Section 168 of the

1 Internal Revenue Code;

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

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

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

33 This paragraph shall not apply to the following:

34 (i) an item of interest paid, accrued, or
35 incurred, directly or indirectly, to a foreign
36 person who is subject in a foreign country or

1 state, other than a state which requires mandatory
2 unitary reporting, to a tax on or measured by net
3 income with respect to such interest; or

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

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

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

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

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

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

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

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

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

9 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

15 (D-20) For taxable years beginning on or after
16 January 1, 2002 and ending on or before December 31,
17 2004, in the case of a distribution from a qualified
18 tuition program under Section 529 of the Internal
19 Revenue Code, other than (i) a distribution from a
20 College Savings Pool created under Section 16.5 of the
21 State Treasurer Act or (ii) a distribution from the
22 Illinois Prepaid Tuition Trust Fund, an amount equal to
23 the amount excluded from gross income under Section
24 529(c)(3)(B);

25 and by deducting from the total so obtained the sum of the
26 following amounts:

27 (E) For taxable years ending before December 31,
28 2001, any amount included in such total in respect of
29 any compensation (including but not limited to any
30 compensation paid or accrued to a serviceman while a
31 prisoner of war or missing in action) paid to a
32 resident by reason of being on active duty in the Armed
33 Forces of the United States and in respect of any
34 compensation paid or accrued to a resident who as a
35 governmental employee was a prisoner of war or missing
36 in action, and in respect of any compensation paid to a

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

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

29 (G) The valuation limitation amount;

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

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

1 of taxable income;

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

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

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

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

35 (N) An amount equal to all amounts included in such
36 total which are exempt from taxation by this State

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

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

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

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

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

31 (T) An amount, to the extent included in adjusted
32 gross income, equal to the amount of interest earned in
33 the taxable year on a medical care savings account
34 established under the Medical Care Savings Account Act
35 or the Medical Care Savings Account Act of 2000 on
36 behalf of the taxpayer, other than interest added

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

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

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

35 (W) For taxable years beginning on or after January
36 1, 1998, all amounts included in the taxpayer's federal

1 gross income in the taxable year from amounts converted
2 from a regular IRA to a Roth IRA. This paragraph is
3 exempt from the provisions of Section 250;

4 (X) For taxable year 1999 and thereafter, an amount
5 equal to the amount of any (i) distributions, to the
6 extent includible in gross income for federal income
7 tax purposes, made to the taxpayer because of his or
8 her status as a victim of persecution for racial or
9 religious reasons by Nazi Germany or any other Axis
10 regime or as an heir of the victim and (ii) items of
11 income, to the extent includible in gross income for
12 federal income tax purposes, attributable to, derived
13 from or in any way related to assets stolen from,
14 hidden from, or otherwise lost to a victim of
15 persecution for racial or religious reasons by Nazi
16 Germany or any other Axis regime immediately prior to,
17 during, and immediately after World War II, including,
18 but not limited to, interest on the proceeds receivable
19 as insurance under policies issued to a victim of
20 persecution for racial or religious reasons by Nazi
21 Germany or any other Axis regime by European insurance
22 companies immediately prior to and during World War II;
23 provided, however, this subtraction from federal
24 adjusted gross income does not apply to assets acquired
25 with such assets or with the proceeds from the sale of
26 such assets; provided, further, this paragraph shall
27 only apply to a taxpayer who was the first recipient of
28 such assets after their recovery and who is a victim of
29 persecution for racial or religious reasons by Nazi
30 Germany or any other Axis regime or as an heir of the
31 victim. The amount of and the eligibility for any
32 public assistance, benefit, or similar entitlement is
33 not affected by the inclusion of items (i) and (ii) of
34 this paragraph in gross income for federal income tax
35 purposes. This paragraph is exempt from the provisions
36 of Section 250;

1 (Y) For taxable years beginning on or after January
2 1, 2002 and ending on or before December 31, 2004,
3 moneys contributed in the taxable year to a College
4 Savings Pool account under Section 16.5 of the State
5 Treasurer Act, except that amounts excluded from gross
6 income under Section 529(c)(3)(C)(i) of the Internal
7 Revenue Code shall not be considered moneys
8 contributed under this subparagraph (Y). For taxable
9 years ending after December 31, 2004, moneys
10 contributed to a College Savings Pool account under
11 Section 16.5 of the State Treasurer Act, to the
12 Illinois Prepaid Tuition Trust Fund under the Illinois
13 Prepaid Tuition Act, or to any other qualified tuition
14 program under Section 529 of the Internal Revenue Code,
15 except that amounts rolled over into a program under
16 Section 529(c)(3)(C)(i) of the Internal Revenue Code
17 shall not be considered moneys contributed under this
18 subparagraph (Y). ~~For taxable years beginning on or~~
19 ~~after January 1, 2005, a maximum of \$10,000 contributed~~
20 ~~in the taxable year to (i) a College Savings Pool~~
21 ~~account under Section 16.5 of the State Treasurer Act~~
22 ~~or (ii) the Illinois Prepaid Tuition Trust Fund, except~~
23 ~~that amounts excluded from gross income under Section~~
24 ~~529(c)(3)(C)(i) of the Internal Revenue Code shall not~~
25 ~~be considered moneys contributed under this~~
26 ~~subparagraph (Y).~~ This subparagraph (Y) is exempt from
27 the provisions of Section 250;

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

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

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

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

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

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

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

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

29 (CC) The amount of (i) any interest income (net of
30 the deductions allocable thereto) taken into account
31 for the taxable year with respect to a transaction with
32 a taxpayer that is required to make an addition
33 modification with respect to such transaction under
34 Section 203(a)(2)(D-17), 203(b)(2)(E-13),
35 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
36 the amount of that addition modification, and (ii) any

1 income from intangible property (net of the deductions
2 allocable thereto) taken into account for the taxable
3 year with respect to a transaction with a taxpayer that
4 is required to make an addition modification with
5 respect to such transaction under Section
6 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or
7 203(d)(2)(D-8), but not to exceed the amount of that
8 addition modification;

9 (DD) An amount equal to the interest income taken
10 into account for the taxable year (net of the
11 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-17) for
19 interest paid, accrued, or incurred, directly or
20 indirectly, to the same foreign person; and

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

34 (b) Corporations.

35 (1) In general. In the case of a corporation, base

1 income means an amount equal to the taxpayer's taxable
2 income for the taxable year as modified by paragraph (2).

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

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

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

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

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

28 (E) For taxable years in which a net operating loss
29 carryback or carryforward from a taxable year ending
30 prior to December 31, 1986 is an element of taxable
31 income under paragraph (1) of subsection (e) or
32 subparagraph (E) of paragraph (2) of subsection (e),
33 the amount by which addition modifications other than
34 those provided by this subparagraph (E) exceeded
35 subtraction modifications in such earlier taxable
36 year, with the following limitations applied in the

1 order that they are listed:

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

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

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

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

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

33 (E-11) If the taxpayer reports a capital gain or
34 loss on the taxpayer's federal income tax return for
35 the taxable year based on a sale or transfer of
36 property for which the taxpayer was required in any

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

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

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

29 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

3 (E-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(b)(2)(E-12) of
27 this Act. As used in this subparagraph, the term
28 "intangible expenses and costs" includes (1) expenses,
29 losses, and costs for, or related to, the direct or
30 indirect acquisition, use, maintenance or management,
31 ownership, sale, exchange, or any other disposition of
32 intangible property; (2) losses incurred, directly or
33 indirectly, from factoring transactions or discounting
34 transactions; (3) royalty, patent, technical, and
35 copyright fees; (4) licensing fees; and (5) other
36 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
35 agree in writing to the application or use of an
36 alternative method of apportionment under Section

1 304(f);

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

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

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 any amount included in such
17 total under Section 78 of the Internal Revenue Code;

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

23 (I) With the exception of any amounts subtracted
24 under subparagraph (J), an amount equal to the sum of
25 all amounts disallowed as deductions by (i) Sections
26 171(a) (2), and 265(a) (2) and amounts disallowed as
27 interest expense by Section 291(a) (3) of the Internal
28 Revenue Code, as now or hereafter amended, and all
29 amounts of expenses allocable to interest and
30 disallowed as deductions by Section 265(a) (1) of the
31 Internal Revenue Code, as now or hereafter amended; and
32 (ii) for taxable years ending on or after August 13,
33 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and
34 832(b) (5) (B) (i) of the Internal Revenue Code; the
35 provisions of this subparagraph are exempt from the
36 provisions of Section 250;

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

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

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

25 (M) For any taxpayer that is a financial
26 organization within the meaning of Section 304(c) of
27 this Act, an amount included in such total as interest
28 income from a loan or loans made by such taxpayer to a
29 borrower, to the extent that such a loan is secured by
30 property which is eligible for the Enterprise Zone
31 Investment Credit. To determine the portion of a loan
32 or loans that is secured by property eligible for a
33 Section 201(f) investment credit to the borrower, the
34 entire principal amount of the loan or loans between
35 the taxpayer and the borrower should be divided into
36 the basis of the Section 201(f) investment credit

1 property which secures the loan or loans, using for
2 this purpose the original basis of such property on the
3 date that it was placed in service in the Enterprise
4 Zone. The subtraction modification available to
5 taxpayer in any year under this subsection shall be
6 that portion of the total interest paid by the borrower
7 with respect to such loan attributable to the eligible
8 property as calculated under the previous sentence;

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

34 (N) Two times any contribution made during the
35 taxable year to a designated zone organization to the
36 extent that the contribution (i) qualifies as a

1 charitable contribution under subsection (c) of
2 Section 170 of the Internal Revenue Code and (ii) must,
3 by its terms, be used for a project approved by the
4 Department of Commerce and Economic Opportunity under
5 Section 11 of the Illinois Enterprise Zone Act;

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

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

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

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

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

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

33 (1) "y" equals the amount of the depreciation
34 deduction taken for the taxable year on the
35 taxpayer's federal income tax return on property
36 for which the bonus depreciation deduction (30% of

1 the adjusted basis of the qualified property) was
2 taken in any year under subsection (k) of Section
3 168 of the Internal Revenue Code, but not including
4 the bonus depreciation deduction; and

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

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

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

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

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

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
2 203(d)(2)(D-8), but not to exceed the amount of such
3 addition modification;

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

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

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

33 (c) Trusts and estates.

34 (1) In general. In the case of a trust or estate, base
35 income means an amount equal to the taxpayer's taxable

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

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

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

10 (B) In the case of (i) an estate, \$600; (ii) a
11 trust which, under its governing instrument, is
12 required to distribute all of its income currently,
13 \$300; and (iii) any other trust, \$100, but in each such
14 case, only to the extent such amount was deducted in
15 the computation of taxable income;

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

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

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

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

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

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

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

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

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

27 (G-5) For taxable years ending after December 31,
28 1997, an amount equal to any eligible remediation costs
29 that the trust or estate deducted in computing adjusted
30 gross income and for which the trust or estate claims a
31 credit under subsection (l) of Section 201;

32 (G-10) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction (30%
34 of the adjusted basis of the qualified property) taken
35 on the taxpayer's federal income tax return for the
36 taxable year under subsection (k) of Section 168 of the

1 Internal Revenue Code; and

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

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

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

34 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

35 Nothing in this subsection shall preclude the
36 Director from making any other adjustment

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

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

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

10 This paragraph shall not apply to the following:

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

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

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

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

34 (iii) any item of intangible expense or cost
35 paid, accrued, or incurred, directly or
36 indirectly, from a transaction with a foreign

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

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

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

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

29 (I) The valuation limitation amount;

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

33 (K) An amount equal to all amounts included in
34 taxable income as modified by subparagraphs (A), (B),
35 (C), (D), (E), (F) and (G) which are exempt from
36 taxation by this State either by reason of its statutes

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

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

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

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

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

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

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

1 not affected by the inclusion of items (i) and (ii) of
2 this paragraph in gross income for federal income tax
3 purposes. This paragraph is exempt from the provisions
4 of Section 250;

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

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

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

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

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

36 The taxpayer is allowed to take the deduction under

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

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

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

31 (V) An amount equal to the income from intangible
32 property taken into account for the taxable year (net
33 of the deductions allocable thereto) with respect to
34 transactions with a foreign person who would be a
35 member of the taxpayer's unitary business group but for
36 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(c)(2)(G-13) for
5 intangible expenses and costs paid, accrued, or
6 incurred, directly or indirectly, to the same foreign
7 person.

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

15 (d) Partnerships.

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

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

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

26 (B) An amount equal to the amount of tax imposed by
27 this Act to the extent deducted from gross income for
28 the taxable year;

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

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

1 (D-5) For taxable years 2001 and thereafter, an
2 amount equal to the bonus depreciation deduction (30%
3 of the adjusted basis of the qualified property) taken
4 on the taxpayer's federal income tax return for the
5 taxable year under subsection (k) of Section 168 of the
6 Internal Revenue Code;

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

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

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

1 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
35 unreasonable; or if the taxpayer and the Director
36 agree in writing to the application or use of an

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

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

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

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

14 This paragraph shall not apply to the following:

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

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

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

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

1 or

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

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

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

22 (E) The valuation limitation amount;

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

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

36 (H) Any income of the partnership which

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

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

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

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

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

36 (M) An amount equal to those dividends included in

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

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

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

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

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

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

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

2 (P) 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-5), 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 (Q) The amount of (i) any interest income (net of
13 the deductions allocable thereto) taken into account
14 for the taxable year with respect to a transaction with
15 a taxpayer that is required to make an addition
16 modification with respect to such transaction under
17 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
18 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
19 the amount of such addition modification and (ii) any
20 income from intangible property (net of the deductions
21 allocable thereto) taken into account for the taxable
22 year with respect to a transaction with a taxpayer that
23 is required to make an addition modification with
24 respect to such transaction under Section
25 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
26 203(d)(2)(D-8), but not to exceed the amount of such
27 addition modification;

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

1 taxable year under Section 203(d) (2) (D-7) for interest
2 paid, accrued, or incurred, directly or indirectly, to
3 the same foreign person; and

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

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

18 (1) In general. Subject to the provisions of paragraph
19 (2) and subsection (b) (3), for purposes of this Section
20 and Section 803(e), a taxpayer's gross income, adjusted
21 gross income, or taxable income for the taxable year shall
22 mean the amount of gross income, adjusted gross income or
23 taxable income properly reportable for federal income tax
24 purposes for the taxable year under the provisions of the
25 Internal Revenue Code. Taxable income may be less than
26 zero. However, for taxable years ending on or after
27 December 31, 1986, net operating loss carryforwards from
28 taxable years ending prior to December 31, 1986, may not
29 exceed the sum of federal taxable income for the taxable
30 year before net operating loss deduction, plus the excess
31 of addition modifications over subtraction modifications
32 for the taxable year. For taxable years ending prior to
33 December 31, 1986, taxable income may never be an amount in
34 excess of the net operating loss for the taxable year as
35 defined in subsections (c) and (d) of Section 172 of the

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

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

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

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

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

33 (D) Real estate investment trusts. In the case of a
34 real estate investment trust subject to the tax imposed
35 by Section 857 of the Internal Revenue Code, real
36 estate investment trust taxable income;

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

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

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

34 (H) Partnerships. In the case of a partnership,
35 taxable income determined in accordance with Section
36 703 of the Internal Revenue Code, except that taxable

1 income shall take into account those items which are
2 required by Section 703(a)(1) to be separately stated
3 but which would be taken into account by an individual
4 in calculating his taxable income.

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

22 (f) Valuation limitation amount.

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

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

31 (B) The lesser of (i) the sum of the pre-August 1,
32 1969 appreciation amounts (to the extent consisting of
33 capital gain) for all property in respect of which such
34 gain was reported for federal income tax purposes for
35 the taxable year, or (ii) the net capital gain for the
36 taxable year, reduced in either case by any amount of

1 such gain included in the amount determined under
2 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

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

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

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

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

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

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.