



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

**HB3748**

Introduced 2/25/2005, by Rep. James H. Meyer

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Provides that for taxable years beginning on or after January 1, 2005, the taxpayer may deduct from base income all amounts distributed from a qualified cash or deferred arrangement under Section 401(k) of the Internal Revenue Code if those amounts were distributed on or after the date that the taxpayer attained the age of 59.5. Effective immediately.

LRB094 09141 BDD 39372 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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



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

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

20 (G) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (AA) If the taxpayer reports a capital gain or loss  
35 on the taxpayer's federal income tax return for the  
36 taxable year based on a sale or transfer of property

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

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

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

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

27 (DD) An amount equal to the interest income taken  
28 into account for the taxable year (net of the  
29 deductions allocable thereto) with respect to  
30 transactions with a foreign person who would be a  
31 member of the taxpayer's unitary business group but for  
32 the fact that the foreign person's business activity  
33 outside the United States is 80% or more of that  
34 person's total business activity, but not to exceed the  
35 addition modification required to be made for the same  
36 taxable year under Section 203(a)(2)(D-17) for

1 interest paid, accrued, or incurred, directly or  
2 indirectly, to the same foreign person; ~~and~~

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

16 (FF) For taxable years beginning on or after  
17 January 1, 2005, all amounts included in the taxpayer's  
18 federal gross income in the taxable year from amounts  
19 distributed from a qualified cash or deferred  
20 arrangement under Section 401(k) of the Internal  
21 Revenue Code if those amounts were distributed on or  
22 after the date that the taxpayer attained the age of  
23 59.5. This paragraph is exempt from the provisions of  
24 Section 250.

25 (b) Corporations.

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

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

32 (A) An amount equal to all amounts paid or accrued  
33 to the taxpayer as interest and all distributions  
34 received from regulated investment companies during  
35 the taxable year to the extent excluded from gross



1 income in the computation of taxable income;

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

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

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

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

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

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

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

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

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

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

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

36 (E-12) For taxable years ending on or after

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

20 This paragraph shall not apply to the following:

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

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

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

36 (b) the transaction giving rise to the

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

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

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

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

30 (E-13) For taxable years ending on or after  
31 December 31, 2004, an amount equal to the amount of  
32 intangible expenses and costs otherwise allowed as a  
33 deduction in computing base income, and that were paid,  
34 accrued, or incurred, directly or indirectly, to a  
35 foreign person who would be a member of the same  
36 unitary business group but for the fact that the

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

32 This paragraph shall not apply to the following:

33 (i) any item of intangible expenses or costs  
34 paid, accrued, or incurred, directly or  
35 indirectly, from a transaction with 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 item; or

4 (ii) any item of intangible expense or cost  
5 paid, accrued, or incurred, directly or  
6 indirectly, if the taxpayer can establish, based  
7 on a 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 intangible expense or cost to a person that is  
12 not a related member, and

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

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

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

1           under Section 404 of this Act;  
2           and by deducting from the total so obtained the sum of the  
3           following amounts:

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

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

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

14          (I) With the exception of any amounts subtracted  
15          under subparagraph (J), an amount equal to the sum of  
16          all amounts disallowed as deductions by (i) Sections  
17          171(a) (2), and 265(a) (2) and amounts disallowed as  
18          interest expense by Section 291(a) (3) of the Internal  
19          Revenue Code, as now or hereafter amended, and all  
20          amounts of expenses allocable to interest and  
21          disallowed as deductions by Section 265(a) (1) of the  
22          Internal Revenue Code, as now or hereafter amended; and  
23          (ii) for taxable years ending on or after August 13,  
24          1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and  
25          832(b) (5) (B) (i) of the Internal Revenue Code; the  
26          provisions of this subparagraph are exempt from the  
27          provisions of Section 250;

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

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

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

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

36           (M-1) For any taxpayer that is a financial



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

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

33 (O) An amount equal to: (i) 85% for taxable years  
34 ending on or before December 31, 1992, or, a percentage  
35 equal to the percentage allowable under Section  
36 243(a)(1) of the Internal Revenue Code of 1986 for

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

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

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

33 (R) In the case of an attorney-in-fact with respect  
34 to whom an interinsurer or a reciprocal insurer has  
35 made the election under Section 835 of the Internal  
36 Revenue Code, 26 U.S.C. 835, an amount equal to the

1 excess, if any, of the amounts paid or incurred by that  
2 interinsurer or reciprocal insurer in the taxable year  
3 to the attorney-in-fact over the deduction allowed to  
4 that interinsurer or reciprocal insurer with respect  
5 to the attorney-in-fact under Section 835(b) of the  
6 Internal Revenue Code for the taxable year;

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

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

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

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

34 The aggregate amount deducted under this  
35 subparagraph in all taxable years for any one piece of  
36 property may not exceed the amount of the bonus

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

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

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

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

31 (W) An amount equal to the interest income taken  
32 into account for the taxable year (net of the  
33 deductions allocable thereto) with respect to  
34 transactions with a foreign person who would be a  
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(b)(2)(E-12) for  
5 interest paid, accrued, or incurred, directly or  
6 indirectly, to the same foreign person; and

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

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

24 (c) Trusts and estates.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 property.

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

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

25 This paragraph shall not apply to the following:

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

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



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

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

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

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

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

35 (G-13) For taxable years ending on or after  
36 December 31, 2004, an amount equal to the amount of

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

7 and by deducting from the total so obtained the sum of the  
8 following amounts:

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

20 (I) The valuation limitation amount;

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

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

35 (L) With the exception of any amounts subtracted  
36 under subparagraph (K), an amount equal to the sum of

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

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

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

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

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

35 (Q) For taxable year 1999 and thereafter, an amount  
36 equal to the amount of any (i) distributions, to the

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

32 (R) For taxable years 2001 and thereafter, for the  
33 taxable year in which the bonus depreciation deduction  
34 (30% of the adjusted basis of the qualified property)  
35 is taken on the taxpayer's federal income tax return  
36 under subsection (k) of Section 168 of the Internal

1 Revenue Code and for each applicable taxable year  
2 thereafter, an amount equal to "x", where:

3 (1) "y" equals the amount of the depreciation  
4 deduction taken for the taxable year on the  
5 taxpayer's federal income tax return on property  
6 for which the bonus depreciation deduction (30% of  
7 the adjusted basis of the qualified property) was  
8 taken in any year under subsection (k) of Section  
9 168 of the Internal Revenue Code, but not including  
10 the bonus depreciation deduction; and

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

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

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

27 The taxpayer is allowed to take the deduction under  
28 this subparagraph only once with respect to any one  
29 piece of property;

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

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

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

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

35 (3) Limitation. The amount of any modification  
36 otherwise required under this subsection shall, under



1 regulations prescribed by the Department, be adjusted by  
2 any amounts included therein which were properly paid,  
3 credited, or required to be distributed, or permanently set  
4 aside for charitable purposes pursuant to Internal Revenue  
5 Code Section 642(c) during the taxable year.

6 (d) Partnerships.

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

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

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

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

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

23 (D) 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 (D-5) 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;

33 (D-6) 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

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

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

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

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

1 property" includes patents, patent applications, trade  
2 names, trademarks, service marks, copyrights, mask  
3 works, trade secrets, and similar types of intangible  
4 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 following  
12         amounts:

13                 (E) The valuation limitation amount;

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

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

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

33                 (I) An amount equal to all amounts of income  
34                 distributable to an entity subject to the Personal  
35                 Property Tax Replacement Income Tax imposed by  
36                 subsections (c) and (d) of Section 201 of this Act

1 including amounts distributable to organizations  
2 exempt from federal income tax by reason of Section  
3 501(a) of the Internal Revenue Code;

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

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

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

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

36 (N) An amount equal to the amount of the deduction

1 used to compute the federal income tax credit for  
2 restoration of substantial amounts held under claim of  
3 right for the taxable year pursuant to Section 1341 of  
4 the Internal Revenue Code of 1986;

5 (O) 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 (P) 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 (D-5), 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 (Q) 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 (R) 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 that 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(d)(2)(D-7) for interest  
29 paid, accrued, or incurred, directly or indirectly, to  
30 the same foreign person; and

31 (S) 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(d)(2)(D-8) for  
5 intangible expenses and costs paid, accrued, or  
6 incurred, directly or indirectly, to the same foreign  
7 person.

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

9 (1) In general. Subject to the provisions of paragraph  
10 (2) and subsection (b) (3), for purposes of this Section  
11 and Section 803(e), a taxpayer's gross income, adjusted  
12 gross income, or taxable income for the taxable year shall  
13 mean the amount of gross income, adjusted gross income or  
14 taxable income properly reportable for federal income tax  
15 purposes for the taxable year under the provisions of the  
16 Internal Revenue Code. Taxable income may be less than  
17 zero. However, for taxable years ending on or after  
18 December 31, 1986, net operating loss carryforwards from  
19 taxable years ending prior to December 31, 1986, may not  
20 exceed the sum of federal taxable income for the taxable  
21 year before net operating loss deduction, plus the excess  
22 of addition modifications over subtraction modifications  
23 for the taxable year. For taxable years ending prior to  
24 December 31, 1986, taxable income may never be an amount in  
25 excess of the net operating loss for the taxable year as  
26 defined in subsections (c) and (d) of Section 172 of the  
27 Internal Revenue Code, provided that when taxable income of  
28 a corporation (other than a Subchapter S corporation),  
29 trust, or estate is less than zero and addition  
30 modifications, other than those provided by subparagraph  
31 (E) of paragraph (2) of subsection (b) for corporations or  
32 subparagraph (E) of paragraph (2) of subsection (c) for  
33 trusts and estates, exceed subtraction modifications, an  
34 addition modification must be made under those  
35 subparagraphs for any other taxable year to which the

1 taxable income less than zero (net operating loss) is  
2 applied under Section 172 of the Internal Revenue Code or  
3 under subparagraph (E) of paragraph (2) of this subsection  
4 (e) applied in conjunction with Section 172 of the Internal  
5 Revenue Code.

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

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

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

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

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

28 (E) Consolidated corporations. In the case of a  
29 corporation which is a member of an affiliated group of  
30 corporations filing a consolidated income tax return  
31 for the taxable year for federal income tax purposes,  
32 taxable income determined as if such corporation had  
33 filed a separate return for federal income tax purposes  
34 for the taxable year and each preceding taxable year  
35 for which it was a member of an affiliated group. For  
36 purposes of this subparagraph, the taxpayer's separate

1 taxable income shall be determined as if the election  
2 provided by Section 243(b) (2) of the Internal Revenue  
3 Code had been in effect for all such years;

4 (F) Cooperatives. In the case of a cooperative  
5 corporation or association, the taxable income of such  
6 organization determined in accordance with the  
7 provisions of Section 1381 through 1388 of the Internal  
8 Revenue Code;

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

25 (H) Partnerships. In the case of a partnership,  
26 taxable income determined in accordance with Section  
27 703 of the Internal Revenue Code, except that taxable  
28 income shall take into account those items which are  
29 required by Section 703(a)(1) to be separately stated  
30 but which would be taken into account by an individual  
31 in calculating his taxable income.

32 (3) Recapture of business expenses on disposition of  
33 asset or business. Notwithstanding any other law to the  
34 contrary, if in prior years income from an asset or  
35 business has been classified as business income and in a  
36 later year is demonstrated to be non-business income, then

1 all expenses, without limitation, deducted in such later  
2 year and in the 2 immediately preceding taxable years  
3 related to that asset or business that generated the  
4 non-business income shall be added back and recaptured as  
5 business income in the year of the disposition of the asset  
6 or business. Such amount shall be apportioned to Illinois  
7 using the greater of the apportionment fraction computed  
8 for the business under Section 304 of this Act for the  
9 taxable year or the average of the apportionment fractions  
10 computed for the business under Section 304 of this Act for  
11 the taxable year and for the 2 immediately preceding  
12 taxable years.

13 (f) Valuation limitation amount.

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

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

22 (B) The lesser of (i) the sum of the pre-August 1,  
23 1969 appreciation amounts (to the extent consisting of  
24 capital gain) for all property in respect of which such  
25 gain was reported for federal income tax purposes for  
26 the taxable year, or (ii) the net capital gain for the  
27 taxable year, reduced in either case by any amount of  
28 such gain included in the amount determined under  
29 subsection (a) (2) (F) or (c) (2) (H).

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

31 (A) If the fair market value of property referred  
32 to in paragraph (1) was readily ascertainable on August  
33 1, 1969, the pre-August 1, 1969 appreciation amount for  
34 such property is the lesser of (i) the excess of such  
35 fair market value over the taxpayer's basis (for  
36 determining gain) for such property on that date

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

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

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

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

23 (h) Legislative intention. Except as expressly provided by  
24 this Section there shall be no modifications or limitations on  
25 the amounts of income, gain, loss or deduction taken into  
26 account in determining gross income, adjusted gross income or  
27 taxable income for federal income tax purposes for the taxable  
28 year, or in the amount of such items entering into the  
29 computation of base income and net income under this Act for  
30 such taxable year, whether in respect of property values as of  
31 August 1, 1969 or otherwise.

32 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,  
33 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;  
34 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.

1 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

2 Section 99. Effective date. This Act takes effect upon  
3 becoming law.