



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1857

Introduced 2/23/2007, by Rep. Ronald A. Wait

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Allows qualified veterans to deduct, from their base income, any compensation, up to \$50,000 per year, during the 5-year period directly following that qualified veteran's discharge from military service. Defines a "qualified veteran" as a veteran who was an Illinois resident at the time that he or she entered military service, who was honorably discharged from the Armed Forces of the United States, the Illinois National Guard, or any reserve component of the Armed Forces of the United States, and who served for at least 6 months in an active-duty capacity in a combat zone. Exempts the deduction from the Act's sunset provisions. Effective immediately.

LRB095 03926 BDD 28576 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

1 20 of the Medical Care Savings Account Act of 2000;

2 (D-10) For taxable years ending after December 31,
3 1997, an amount equal to any eligible remediation costs
4 that the individual deducted in computing adjusted
5 gross income and for which the individual claims a
6 credit under subsection (l) of Section 201;

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

12 (D-16) If the taxpayer sells, transfers, abandons,
13 or otherwise disposes of property for which the
14 taxpayer was required in any taxable year to make an
15 addition modification under subparagraph (D-15), then
16 an amount equal to the aggregate amount of the
17 deductions taken in all taxable years under
18 subparagraph (Z) with respect to that property.

19 If the taxpayer continues to own property through
20 the last day of the last tax year for which the
21 taxpayer may claim a depreciation deduction for
22 federal income tax purposes and for which the taxpayer
23 was allowed in any taxable year to make a subtraction
24 modification under subparagraph (Z), then an amount
25 equal to that subtraction modification.

26 The taxpayer is required to make the addition

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

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

22 This paragraph shall not apply to the following:

23 (i) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a foreign
25 person who is subject in a foreign country or
26 state, other than a state which requires mandatory

1 unitary reporting, to a tax on or measured by net
2 income with respect to such interest; or

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

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

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

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

25 (iv) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a foreign

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

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

16 (D-18) For taxable years ending on or after
17 December 31, 2004, an amount equal to the amount of
18 intangible expenses and costs otherwise allowed as a
19 deduction in computing base income, and that were paid,
20 accrued, or incurred, directly or indirectly, to a
21 foreign person who would be a member of the same
22 unitary business group but for the fact that the
23 foreign person's business activity outside the United
24 States is 80% or more of that person's total business
25 activity. The addition modification required by this
26 subparagraph shall be reduced to the extent that

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

1 assets.

2 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) any item of intangible expense or cost

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

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

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

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

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

1 being a member of the Illinois National Guard. The
2 provisions of this amendatory Act of the 92nd General
3 Assembly are exempt from the provisions of Section 250;

4 (E-5) For taxable years ending on or after December
5 31, 2007, any compensation from any source paid or
6 accrued to a qualified veteran up to \$50,000 per year
7 during the 5-year period directly following that
8 qualified veteran's discharge from military service.

9 For the purposes of this subparagraph (E-5),
10 "qualified veteran" means a veteran who was an Illinois
11 resident at the time that he or she entered military
12 service, who was honorably discharged from the Armed
13 Forces of the United States, the Illinois National
14 Guard, or any reserve component of the Armed Forces of
15 the United States, and who served for at least 6 months
16 in an active-duty capacity in a combat zone. This
17 subparagraph (E-5) is exempt from the provisions of
18 Section 250;

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

1 earnings from self employment by Section 1402 of the
2 Internal Revenue Code and regulations adopted pursuant
3 thereto;

4 (G) The valuation limitation amount;

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

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

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

23 (K) An amount equal to those dividends included in
24 such total that were paid by a corporation that
25 conducts business operations in a federally designated
26 Foreign Trade Zone or Sub-Zone and that is designated a

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

6 (L) For taxable years ending after December 31,
7 1983, an amount equal to all social security benefits
8 and railroad retirement benefits included in such
9 total pursuant to Sections 72(r) and 86 of the Internal
10 Revenue Code;

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

24 (N) An amount equal to all amounts included in such
25 total which are exempt from taxation by this State
26 either by reason of its statutes or Constitution or by

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

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

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

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

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

22 (S) An amount, to the extent included in adjusted
23 gross income, equal to the amount of a contribution
24 made in the taxable year on behalf of the taxpayer to a
25 medical care savings account established under the
26 Medical Care Savings Account Act or the Medical Care

1 Savings Account Act of 2000 to the extent the
2 contribution is accepted by the account administrator
3 as provided in that Act;

4 (T) An amount, to the extent included in adjusted
5 gross income, equal to the amount of interest earned in
6 the taxable year on a medical care savings account
7 established under the Medical Care Savings Account Act
8 or the Medical Care Savings Account Act of 2000 on
9 behalf of the taxpayer, other than interest added
10 pursuant to item (D-5) of this paragraph (2);

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

17 (V) Beginning with tax years ending on or after
18 December 31, 1995 and ending with tax years ending on
19 or before December 31, 2004, an amount equal to the
20 amount paid by a taxpayer who is a self-employed
21 taxpayer, a partner of a partnership, or a shareholder
22 in a Subchapter S corporation for health insurance or
23 long-term care insurance for that taxpayer or that
24 taxpayer's spouse or dependents, to the extent that the
25 amount paid for that health insurance or long-term care
26 insurance may be deducted under Section 213 of the

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

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

23 (X) For taxable year 1999 and thereafter, an amount
24 equal to the amount of any (i) distributions, to the
25 extent includible in gross income for federal income
26 tax purposes, made to the taxpayer because of his or

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

1 this paragraph in gross income for federal income tax
2 purposes. This paragraph is exempt from the provisions
3 of Section 250;

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

22 (Z) For taxable years 2001 and thereafter, for the
23 taxable year in which the bonus depreciation deduction
24 is taken on the taxpayer's federal income tax return
25 under subsection (k) of Section 168 of the Internal
26 Revenue Code and for each applicable taxable year

1 thereafter, an amount equal to "x", where:

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

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

13 (3) for taxable years ending after December
14 31, 2005:

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

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

24 The aggregate amount deducted under this
25 subparagraph in all taxable years for any one piece of
26 property may not exceed the amount of the bonus

1 depreciation deduction taken on that property on the
2 taxpayer's federal income tax return under subsection
3 (k) of Section 168 of the Internal Revenue Code. This
4 subparagraph (Z) is exempt from the provisions of
5 Section 250;

6 (AA) If the taxpayer sells, transfers, abandons,
7 or otherwise disposes of property for which the
8 taxpayer was required in any taxable year to make an
9 addition modification under subparagraph (D-15), then
10 an amount equal to that addition modification.

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

18 The taxpayer is allowed to take the deduction under
19 this subparagraph only once with respect to any one
20 piece of property.

21 This subparagraph (AA) is exempt from the
22 provisions of Section 250;

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

26 (CC) The amount of (i) any interest income (net of

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

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

1 indirectly, to the same foreign person; and

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

15 (b) Corporations.

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

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

22 (A) An amount equal to all amounts paid or accrued
23 to the taxpayer as interest and all distributions
24 received from regulated investment companies during
25 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

1 year, with the following limitations applied in the
2 order that they are listed:

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

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

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

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

1 credit under subsection (l) of Section 201;

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

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

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

21 The taxpayer is required to make the addition
22 modification under this subparagraph only once with
23 respect to any one piece of property;

24 (E-12) For taxable years ending on or after
25 December 31, 2004, an amount equal to the amount
26 otherwise allowed as a deduction in computing base

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

18 This paragraph shall not apply to the following:

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

25 (ii) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a foreign

1 person if the taxpayer can establish, based on a
2 preponderance of the evidence, both of the
3 following:

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

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

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

21 (iv) an item of interest paid, accrued, or
22 incurred, directly or indirectly, to a 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

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

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

12 (E-13) For taxable years ending on or after
13 December 31, 2004, an amount equal to the amount of
14 intangible expenses and costs otherwise allowed as a
15 deduction in computing base income, and that were paid,
16 accrued, or incurred, directly or indirectly, to a
17 foreign person who would be a member of the same
18 unitary business group but for the fact that the
19 foreign person's business activity outside the United
20 States is 80% or more of that person's total business
21 activity. The addition modification required by this
22 subparagraph shall be reduced to the extent that
23 dividends were included in base income of the unitary
24 group for the same taxable year and received by the
25 taxpayer or by a member of the taxpayer's unitary
26 business group (including amounts included in gross

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

24 This paragraph shall not apply to the following:

25 (i) any item of intangible expenses or costs
26 paid, accrued, or incurred, directly or

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

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

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

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

22 (iii) any item of intangible expense or cost
23 paid, accrued, or incurred, directly or
24 indirectly, from a transaction with a foreign
25 person if the taxpayer establishes by clear and
26 convincing evidence, that the adjustments are

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

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

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

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

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

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

26 (I) With the exception of any amounts subtracted

1 under subparagraph (J), an amount equal to the sum of
2 all amounts disallowed as deductions by (i) Sections
3 171(a) (2), and 265(a)(2) and amounts disallowed as
4 interest expense by Section 291(a)(3) of the Internal
5 Revenue Code, as now or hereafter amended, and all
6 amounts of expenses allocable to interest and
7 disallowed as deductions by Section 265(a)(1) of the
8 Internal Revenue Code, as now or hereafter amended; and
9 (ii) for taxable years ending on or after August 13,
10 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
11 832(b)(5)(B)(i) of the Internal Revenue Code; the
12 provisions of this subparagraph are exempt from the
13 provisions of Section 250;

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

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

1 a River Edge Redevelopment Zone or zones created under
2 the River Edge Redevelopment Zone Act and conducts
3 substantially all of its operations in an Enterprise
4 Zone or zones or a River Edge Redevelopment Zone or
5 zones. This subparagraph (K) is exempt from the
6 provisions of Section 250;

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 or the River Edge Redevelopment Zone
23 Investment Credit. To determine the portion of a loan
24 or loans that is secured by property eligible for a
25 Section 201(f) investment credit to the borrower, the
26 entire principal amount of the loan or loans between

1 the taxpayer and the borrower should be divided into
2 the basis of the Section 201(f) investment credit
3 property which secures the loan or loans, using for
4 this purpose the original basis of such property on the
5 date that it was placed in service in the Enterprise
6 Zone or the River Edge Redevelopment Zone. The
7 subtraction modification available to taxpayer in any
8 year under this subsection shall be that portion of the
9 total interest paid by the borrower with respect to
10 such loan attributable to the eligible property as
11 calculated under the previous sentence. This
12 subparagraph (M) is exempt from the provisions of
13 Section 250;

14 (M-1) For any taxpayer that is a financial
15 organization within the meaning of Section 304(c) of
16 this Act, an amount included in such total as interest
17 income from a loan or loans made by such taxpayer to a
18 borrower, to the extent that such a loan is secured by
19 property which is eligible for the High Impact Business
20 Investment Credit. To determine the portion of a loan
21 or loans that is secured by property eligible for a
22 Section 201(h) investment credit to the borrower, the
23 entire principal amount of the loan or loans between
24 the taxpayer and the borrower should be divided into
25 the basis of the Section 201(h) investment credit
26 property which secures the loan or loans, using for

1 this purpose the original basis of such property on the
2 date that it was placed in service in a federally
3 designated Foreign Trade Zone or Sub-Zone located in
4 Illinois. No taxpayer that is eligible for the
5 deduction provided in subparagraph (M) of paragraph
6 (2) of this subsection shall be eligible for the
7 deduction provided under this subparagraph (M-1). The
8 subtraction modification available to taxpayers in any
9 year under this subsection shall be that portion of the
10 total interest paid by the borrower with respect to
11 such loan attributable to the eligible property as
12 calculated under the previous sentence;

13 (N) Two times any contribution made during the
14 taxable year to a designated zone organization to the
15 extent that the contribution (i) qualifies as a
16 charitable contribution under subsection (c) of
17 Section 170 of the Internal Revenue Code and (ii) must,
18 by its terms, be used for a project approved by the
19 Department of Commerce and Economic Opportunity under
20 Section 11 of the Illinois Enterprise Zone Act or under
21 Section 10-10 of the ~~Illinois~~ River Edge Redevelopment
22 Zone Act. This subparagraph (N) is exempt from the
23 provisions of Section 250;

24 (O) An amount equal to: (i) 85% for taxable years
25 ending on or before December 31, 1992, or, a percentage
26 equal to the percentage allowable under Section

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

26 (P) An amount equal to any contribution made to a

1 job training project established pursuant to the Tax
2 Increment Allocation Redevelopment Act;

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

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

21 (S) For taxable years ending on or after December
22 31, 1997, in the case of a Subchapter S corporation, an
23 amount equal to all amounts of income allocable to a
24 shareholder subject to the Personal Property Tax
25 Replacement Income Tax imposed by subsections (c) and
26 (d) of Section 201 of this Act, including amounts

1 allocable to organizations exempt from federal income
2 tax by reason of Section 501(a) of the Internal Revenue
3 Code. This subparagraph (S) is exempt from the
4 provisions of Section 250;

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

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

18 (2) for taxable years ending on or before
19 December 31, 2005, "x" equals "y" multiplied by 30
20 and then divided by 70 (or "y" multiplied by
21 0.429); and

22 (3) for taxable years ending after December
23 31, 2005:

24 (i) for property on which a bonus
25 depreciation deduction of 30% of the adjusted
26 basis was taken, "x" equals "y" multiplied by

1 30 and then divided by 70 (or "y" multiplied by
2 0.429); and

3 (ii) for property on which a bonus
4 depreciation deduction of 50% of the adjusted
5 basis was taken, "x" equals "y" multiplied by
6 1.0.

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

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

20 If the taxpayer continues to own property through
21 the last day of the last tax year for which the
22 taxpayer may claim a depreciation deduction for
23 federal income tax purposes and for which the taxpayer
24 was required in any taxable year to make an addition
25 modification under subparagraph (E-10), then an amount
26 equal to that addition modification.

1 The taxpayer is allowed to take the deduction under
2 this subparagraph only once with respect to any one
3 piece of property.

4 This subparagraph (U) is exempt from the
5 provisions of Section 250;

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

22 (W) An amount equal to the interest income taken
23 into account for the taxable year (net of the
24 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

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

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

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

25 (c) Trusts and estates.

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

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

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

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

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

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

25 (E) For taxable years in which a net operating loss
26 carryback or carryforward from a taxable year ending

1 prior to December 31, 1986 is an element of taxable
2 income under paragraph (1) of subsection (e) or
3 subparagraph (E) of paragraph (2) of subsection (e),
4 the amount by which addition modifications other than
5 those provided by this subparagraph (E) exceeded
6 subtraction modifications in such taxable year, with
7 the following limitations applied in the order that
8 they are listed:

9 (i) the addition modification relating to the
10 net operating loss carried back or forward to the
11 taxable year from any taxable year ending prior to
12 December 31, 1986 shall be reduced by the amount of
13 addition modification under this subparagraph (E)
14 which related to that net operating loss and which
15 was taken into account in calculating the base
16 income of an earlier taxable year, and

17 (ii) the addition modification relating to the
18 net operating loss carried back or forward to the
19 taxable year from any taxable year ending prior to
20 December 31, 1986 shall not exceed the amount of
21 such carryback or carryforward;

22 For taxable years in which there is a net operating
23 loss carryback or carryforward from more than one other
24 taxable year ending prior to December 31, 1986, the
25 addition modification provided in this subparagraph
26 (E) shall be the sum of the amounts computed

1 independently under the preceding provisions of this
2 subparagraph (E) for each such taxable year;

3 (F) For taxable years ending on or after January 1,
4 1989, an amount equal to the tax deducted pursuant to
5 Section 164 of the Internal Revenue Code if the trust
6 or estate is claiming the same tax for purposes of the
7 Illinois foreign tax credit under Section 601 of this
8 Act;

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

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

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

23 (G-11) If the taxpayer sells, transfers, abandons,
24 or otherwise disposes of property for which the
25 taxpayer was required in any taxable year to make an
26 addition modification under subparagraph (G-10), then

1 an amount equal to the aggregate amount of the
2 deductions taken in all taxable years under
3 subparagraph (R) with respect to that property.

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

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

14 (G-12) For taxable years ending on or after
15 December 31, 2004, an amount equal to the amount
16 otherwise allowed as a deduction in computing base
17 income for interest paid, accrued, or incurred,
18 directly or indirectly, to a foreign person who would
19 be a member of the same unitary business group but for
20 the fact that the foreign person's business activity
21 outside the United States is 80% or more of the foreign
22 person's total business activity. The addition
23 modification required by this subparagraph shall be
24 reduced to the extent that dividends were included in
25 base income of the unitary group for the same taxable
26 year and received by the taxpayer or by a member of the

1 taxpayer's unitary business group (including amounts
2 included in gross income pursuant to Sections 951
3 through 964 of the Internal Revenue Code and amounts
4 included in gross income under Section 78 of the
5 Internal Revenue Code) with respect to the stock of the
6 same person to whom the interest was paid, accrued, or
7 incurred.

8 This paragraph shall not apply to the following:

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

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

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

24 (b) the transaction giving rise to the
25 interest expense between the taxpayer and the
26 foreign person did not have as a principal

1 purpose the avoidance of Illinois income tax,
2 and is paid pursuant to a contract or agreement
3 that reflects an arm's-length interest rate
4 and terms; or

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

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

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

1 under Section 404 of this Act;

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

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

14 This paragraph shall not apply to the following:

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

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

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

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

12 (iii) any item of intangible expense or cost
13 paid, accrued, or incurred, directly or
14 indirectly, from a transaction with 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

1 and such regulations provide methods and standards
2 by which the Department will utilize its authority
3 under Section 404 of this Act;

4 and by deducting from the total so obtained the sum of the
5 following amounts:

6 (H) An amount equal to all amounts included in such
7 total pursuant to the provisions of Sections 402(a),
8 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
9 Internal Revenue Code or included in such total as
10 distributions under the provisions of any retirement
11 or disability plan for employees of any governmental
12 agency or unit, or retirement payments to retired
13 partners, which payments are excluded in computing net
14 earnings from self employment by Section 1402 of the
15 Internal Revenue Code and regulations adopted pursuant
16 thereto;

17 (I) The valuation limitation amount;

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

21 (K) An amount equal to all amounts included in
22 taxable income as modified by subparagraphs (A), (B),
23 (C), (D), (E), (F) and (G) which are exempt from
24 taxation by this State either by reason of its statutes
25 or Constitution or by reason of the Constitution,
26 treaties or statutes of the United States; provided

1 that, in the case of any statute of this State that
2 exempts income derived from bonds or other obligations
3 from the tax imposed under this Act, the amount
4 exempted shall be the interest net of bond premium
5 amortization;

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

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

1 zones. This subparagraph (M) is exempt from the
2 provisions of Section 250;

3 (N) An amount equal to any contribution made to a
4 job training project established pursuant to the Tax
5 Increment Allocation Redevelopment Act;

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

15 (P) An amount equal to the amount of the deduction
16 used to compute the federal income tax credit for
17 restoration of substantial amounts held under claim of
18 right for the taxable year pursuant to Section 1341 of
19 the Internal Revenue Code of 1986;

20 (Q) For taxable year 1999 and thereafter, an amount
21 equal to the amount of any (i) distributions, to the
22 extent includible in gross income for federal income
23 tax purposes, made to the taxpayer because of his or
24 her status as a victim of persecution for racial or
25 religious reasons by Nazi Germany or any other Axis
26 regime or as an heir of the victim and (ii) items of

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

1 (R) For taxable years 2001 and thereafter, for the
2 taxable year in which the bonus depreciation deduction
3 is taken on the taxpayer's federal income tax return
4 under subsection (k) of Section 168 of the Internal
5 Revenue Code and for each applicable taxable year
6 thereafter, an amount equal to "x", where:

7 (1) "y" equals the amount of the depreciation
8 deduction taken for the taxable year on the
9 taxpayer's federal income tax return on property
10 for which the bonus depreciation deduction was
11 taken in any year under subsection (k) of Section
12 168 of the Internal Revenue Code, but not including
13 the bonus depreciation deduction;

14 (2) for taxable years ending on or before
15 December 31, 2005, "x" equals "y" multiplied by 30
16 and then divided by 70 (or "y" multiplied by
17 0.429); and

18 (3) for taxable years ending after December
19 31, 2005:

20 (i) for property on which a bonus
21 depreciation deduction of 30% of the adjusted
22 basis was taken, "x" equals "y" multiplied by
23 30 and then divided by 70 (or "y" multiplied by
24 0.429); and

25 (ii) for property on which a bonus
26 depreciation deduction of 50% of the adjusted

1 basis was taken, "x" equals "y" multiplied by
2 1.0.

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

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

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

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

26 This subparagraph (S) is exempt from the

1 provisions of Section 250;

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

18 (U) An amount equal to the interest income taken
19 into account for the taxable year (net of the
20 deductions allocable thereto) with respect to
21 transactions with a foreign person who would be a
22 member of the taxpayer's unitary business group but for
23 the fact the foreign person's business activity
24 outside the United States is 80% or more of that
25 person's total business activity, but not to exceed the
26 addition modification required to be made for the same

1 taxable year under Section 203(c)(2)(G-12) for
2 interest paid, accrued, or incurred, directly or
3 indirectly, to the same foreign person; and

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

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

24 (d) Partnerships.

25 (1) In general. In the case of a partnership, base

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

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

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

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

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

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

20 (D-5) For taxable years 2001 and thereafter, an
21 amount equal to the bonus depreciation deduction taken
22 on the taxpayer's federal income tax return for the
23 taxable year under subsection (k) of Section 168 of the
24 Internal Revenue Code;

25 (D-6) If the taxpayer sells, transfers, abandons,
26 or otherwise disposes of property for which the

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

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

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

16 (D-7) For taxable years ending on or after December
17 31, 2004, an amount equal to the amount otherwise
18 allowed as a deduction in computing base income for
19 interest paid, accrued, or incurred, directly or
20 indirectly, to a foreign person who would be a member
21 of the same unitary business group but for the fact the
22 foreign person's business activity outside the United
23 States is 80% or more of the foreign person's total
24 business activity. The addition modification required
25 by this subparagraph shall be reduced to the extent
26 that dividends were included in base income of the

1 unitary group for the same taxable year and received by
2 the taxpayer or by a member of the taxpayer's unitary
3 business group (including amounts included in gross
4 income pursuant to Sections 951 through 964 of the
5 Internal Revenue Code and amounts included in gross
6 income under Section 78 of the Internal Revenue Code)
7 with respect to the stock of the same person to whom
8 the interest was paid, accrued, or incurred.

9 This paragraph shall not apply to the following:

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

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

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

25 (b) the transaction giving rise to the
26 interest expense between the taxpayer and the

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

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

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

20 Nothing in this subsection shall preclude the
21 Director from making any other adjustment
22 otherwise allowed under Section 404 of this Act for
23 any tax year beginning after the effective date of
24 this amendment provided such adjustment is made
25 pursuant to regulation adopted by the Department
26 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

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

15 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

22 Nothing in this subsection shall preclude the
23 Director from making any other adjustment
24 otherwise allowed under Section 404 of this Act for
25 any tax year beginning after the effective date of
26 this amendment provided such adjustment is made

1 pursuant to regulation adopted by the Department
2 and such regulations provide methods and standards
3 by which the Department will utilize its authority
4 under Section 404 of this Act;

5 and by deducting from the total so obtained the following
6 amounts:

7 (E) The valuation limitation amount;

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

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

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

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

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

21 (K) An amount equal to those dividends included in
22 such total which were paid by a corporation which
23 conducts business operations in an Enterprise Zone or
24 zones created under the Illinois Enterprise Zone Act,
25 enacted by the 82nd General Assembly, or a River Edge
26 Redevelopment Zone or zones created under the River

1 Edge Redevelopment Zone Act and conducts substantially
2 all of its operations in an Enterprise Zone or Zones or
3 from a River Edge Redevelopment Zone or zones. This
4 subparagraph (K) is exempt from the provisions of
5 Section 250;

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

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

18 (N) An amount equal to the amount of the deduction
19 used to compute the federal income tax credit for
20 restoration of substantial amounts held under claim of
21 right for the taxable year pursuant to Section 1341 of
22 the Internal Revenue Code of 1986;

23 (O) For taxable years 2001 and thereafter, for the
24 taxable year in which the bonus depreciation deduction
25 is taken on the taxpayer's federal income tax return
26 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 was
7 taken in any year under subsection (k) of Section
8 168 of the Internal Revenue Code, but not including
9 the bonus depreciation deduction;

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

14 (3) for taxable years ending after December
15 31, 2005:

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

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

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

1 property may not exceed the amount of the bonus
2 depreciation deduction 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. This
5 subparagraph (O) is exempt from the provisions of
6 Section 250;

7 (P) If the taxpayer sells, transfers, abandons, or
8 otherwise disposes of property for which the taxpayer
9 was required in any taxable year to make an addition
10 modification under subparagraph (D-5), then an amount
11 equal to that addition modification.

12 If the taxpayer continues to own property through
13 the last day of the last tax year for which the
14 taxpayer may claim a depreciation deduction for
15 federal income tax purposes and for which the taxpayer
16 was required in any taxable year to make an addition
17 modification under subparagraph (D-5), then an amount
18 equal to that addition modification.

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

22 This subparagraph (P) is exempt from the
23 provisions of Section 250;

24 (Q) The amount of (i) any interest income (net of
25 the deductions allocable thereto) taken into account
26 for the taxable year with respect to a transaction with

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

14 (R) An amount equal to the interest income taken
15 into account for the taxable year (net of the
16 deductions allocable thereto) with respect to
17 transactions with a foreign person who would be a
18 member of the taxpayer's unitary business group but for
19 the fact that the foreign person's business activity
20 outside the United States is 80% or more of that
21 person's total business activity, but not to exceed the
22 addition modification required to be made for the same
23 taxable year under Section 203(d)(2)(D-7) for interest
24 paid, accrued, or incurred, directly or indirectly, to
25 the same foreign person; and

26 (S) An amount equal to the income from intangible

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

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

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

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

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

24 (A) Certain life insurance companies. In the case
25 of a life insurance company subject to the tax imposed
26 by Section 801 of the Internal Revenue Code, life

1 insurance company taxable income, plus the amount of
2 distribution from pre-1984 policyholder surplus
3 accounts as calculated under Section 815a of the
4 Internal Revenue Code;

5 (B) Certain other insurance companies. In the case
6 of mutual insurance companies subject to the tax
7 imposed by Section 831 of the Internal Revenue Code,
8 insurance company taxable income;

9 (C) Regulated investment companies. In the case of
10 a regulated investment company subject to the tax
11 imposed by Section 852 of the Internal Revenue Code,
12 investment company taxable income;

13 (D) Real estate investment trusts. In the case of a
14 real estate investment trust subject to the tax imposed
15 by Section 857 of the Internal Revenue Code, real
16 estate investment trust taxable income;

17 (E) Consolidated corporations. In the case of a
18 corporation which is a member of an affiliated group of
19 corporations filing a consolidated income tax return
20 for the taxable year for federal income tax purposes,
21 taxable income determined as if such corporation had
22 filed a separate return for federal income tax purposes
23 for the taxable year and each preceding taxable year
24 for which it was a member of an affiliated group. For
25 purposes of this subparagraph, the taxpayer's separate
26 taxable income shall be determined as if the election

1 provided by Section 243(b) (2) of the Internal Revenue
2 Code had been in effect for all such years;

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

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

24 (H) Partnerships. In the case of a partnership,
25 taxable income determined in accordance with Section
26 703 of the Internal Revenue Code, except that taxable

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

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

22 (f) Valuation limitation amount.

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

26 (A) The sum of the pre-August 1, 1969 appreciation

1 amounts (to the extent consisting of gain reportable
2 under the provisions of Section 1245 or 1250 of the
3 Internal Revenue Code) for all property in respect of
4 which such gain was reported for the taxable year; plus

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

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

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

25 (B) If the fair market value of property referred
26 to in paragraph (1) was not readily ascertainable on

1 August 1, 1969, the pre-August 1, 1969 appreciation
2 amount for such property is that amount which bears the
3 same ratio to the total gain reported in respect of the
4 property for federal income tax purposes for the
5 taxable year, as the number of full calendar months in
6 that part of the taxpayer's holding period for the
7 property ending July 31, 1969 bears to the number of
8 full calendar months in the taxpayer's entire holding
9 period for the property.

10 (C) The Department shall prescribe such
11 regulations as may be necessary to carry out the
12 purposes of this paragraph.

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

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

1 (Source: P.A. 93-812, eff. 7-26-04; 93-840, eff. 7-30-04;
2 94-776, eff. 5-19-06; 94-789, eff. 5-19-06; 94-1021, eff.
3 7-12-06; 94-1074, eff. 12-26-06; revised 1-2-07.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.