

SB2463



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2463

Introduced 10/14/2009, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Restores a deduction allowed for personal services income of a partnership and certain compensation paid to partners (now, the deduction is available only for taxable years ending before December 31, 2009). Makes changes to a corresponding addition modification. Effective immediately.

LRB096 13752 HLH 28521 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) An amount equal to the amount otherwise
4 allowed as a deduction in computing base income for
5 interest paid, accrued, or incurred, directly or
6 indirectly, (i) for taxable years ending on or after
7 December 31, 2004, to a foreign person who would be a
8 member of the same unitary business group but for the
9 fact that foreign person's business activity outside
10 the United States is 80% or more of the foreign
11 person's total business activity and (ii) for taxable
12 years ending on or after December 31, 2008, to a person
13 who would be a member of the same unitary business
14 group but for the fact that the person is prohibited
15 under Section 1501(a)(27) from being included in the
16 unitary business group because he or she is ordinarily
17 required to apportion business income under different
18 subsections of Section 304. The addition modification
19 required by this subparagraph shall be reduced to the
20 extent that dividends were included in base income of
21 the unitary group for the same taxable year and
22 received by the taxpayer or by a member of the
23 taxpayer's unitary business group (including amounts
24 included in gross income under Sections 951 through 964
25 of the Internal Revenue Code and amounts included in
26 gross income under Section 78 of the Internal Revenue

1 Code) with respect to the stock of the same person to
2 whom the interest was paid, accrued, or incurred.

3 This paragraph shall not apply to the following:

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

10 (ii) an item of interest paid, accrued, or
11 incurred, directly or indirectly, to a person if
12 the taxpayer can establish, based on a
13 preponderance of the evidence, both of the
14 following:

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

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

25 (iii) the taxpayer can establish, based on
26 clear and convincing evidence, that the interest

1 paid, accrued, or incurred relates to a contract or
2 agreement entered into at arm's-length rates and
3 terms and the principal purpose for the payment is
4 not federal or Illinois tax avoidance; or

5 (iv) an item of interest paid, accrued, or
6 incurred, directly or indirectly, to a person if
7 the taxpayer establishes by clear and convincing
8 evidence that the adjustments are unreasonable; or
9 if the taxpayer and the Director agree in writing
10 to the application or use of an alternative method
11 of apportionment under Section 304(f).

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

21 (D-18) An amount equal to the amount of intangible
22 expenses and costs otherwise allowed as a deduction in
23 computing base income, and that were paid, accrued, or
24 incurred, directly or indirectly, (i) for taxable
25 years ending on or after December 31, 2004, to a
26 foreign person who would be a member of the same

1 unitary business group but for the fact that the
2 foreign person's business activity outside the United
3 States is 80% or more of that person's total business
4 activity and (ii) for taxable years ending on or after
5 December 31, 2008, to a person who would be a member of
6 the same unitary business group but for the fact that
7 the person is prohibited under Section 1501(a)(27)
8 from being included in the unitary business group
9 because he or she is ordinarily required to apportion
10 business income under different subsections of Section
11 304. 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 under Sections 951 through 964 of the Internal
18 Revenue Code and amounts included in gross income under
19 Section 78 of the Internal Revenue Code) with respect
20 to the stock of the same person to whom the intangible
21 expenses and costs were directly or indirectly paid,
22 incurred, or accrued. The preceding sentence does not
23 apply to the extent that the same dividends caused a
24 reduction to the addition modification required under
25 Section 203(a)(2)(D-17) of this Act. As used in this
26 subparagraph, the term "intangible expenses and costs"

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

14 This paragraph shall not apply to the following:

15 (i) any item of intangible expenses or costs
16 paid, accrued, or incurred, directly or
17 indirectly, from a transaction with a person who is
18 subject in a foreign country or state, other than a
19 state which requires mandatory unitary reporting,
20 to a tax on or measured by net income with respect
21 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 person during the same taxable
2 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 person did not have as a
8 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 person if the
15 taxpayer establishes by clear and convincing
16 evidence, that the adjustments are unreasonable;
17 or if the taxpayer and the Director agree in
18 writing to the application or use of an alternative
19 method of apportionment under Section 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;

3 (D-19) For taxable years ending on or after
4 December 31, 2008, an amount equal to the amount of
5 insurance premium expenses and costs otherwise allowed
6 as a deduction in computing base income, and that were
7 paid, accrued, or incurred, directly or indirectly, to
8 a person who would be a member of the same unitary
9 business group but for the fact that the person is
10 prohibited under Section 1501(a)(27) from being
11 included in the unitary business group because he or
12 she is ordinarily required to apportion business
13 income under different subsections of Section 304. The
14 addition modification required by this subparagraph
15 shall be reduced to the extent that dividends were
16 included in base income of the unitary group for the
17 same taxable year and received by the taxpayer or by a
18 member of the taxpayer's unitary business group
19 (including amounts included in gross income under
20 Sections 951 through 964 of the Internal Revenue Code
21 and amounts included in gross income under Section 78
22 of the Internal Revenue Code) with respect to the stock
23 of the same person to whom the premiums and costs were
24 directly or indirectly paid, incurred, or accrued. The
25 preceding sentence does not apply to the extent that
26 the same dividends caused a reduction to the addition

1 modification required under Section 203(a)(2)(D-17) or
2 Section 203(a)(2)(D-18) of this Act.

3 (D-20) For taxable years beginning on or after
4 January 1, 2002 and ending on or before December 31,
5 2006, in the case of a distribution from a qualified
6 tuition program under Section 529 of the Internal
7 Revenue Code, other than (i) a distribution from a
8 College Savings Pool created under Section 16.5 of the
9 State Treasurer Act or (ii) a distribution from the
10 Illinois Prepaid Tuition Trust Fund, an amount equal to
11 the amount excluded from gross income under Section
12 529(c)(3)(B). For taxable years beginning on or after
13 January 1, 2007, in the case of a distribution from a
14 qualified tuition program under Section 529 of the
15 Internal Revenue Code, other than (i) a distribution
16 from a College Savings Pool created under Section 16.5
17 of the State Treasurer Act, (ii) a distribution from
18 the Illinois Prepaid Tuition Trust Fund, or (iii) a
19 distribution from a qualified tuition program under
20 Section 529 of the Internal Revenue Code that (I)
21 adopts and determines that its offering materials
22 comply with the College Savings Plans Network's
23 disclosure principles and (II) has made reasonable
24 efforts to inform in-state residents of the existence
25 of in-state qualified tuition programs by informing
26 Illinois residents directly and, where applicable, to

1 inform financial intermediaries distributing the
2 program to inform in-state residents of the existence
3 of in-state qualified tuition programs at least
4 annually, an amount equal to the amount excluded from
5 gross income under Section 529(c)(3)(B).

6 For the purposes of this subparagraph (D-20), a
7 qualified tuition program has made reasonable efforts
8 if it makes disclosures (which may use the term
9 "in-state program" or "in-state plan" and need not
10 specifically refer to Illinois or its qualified
11 programs by name) (i) directly to prospective
12 participants in its offering materials or makes a
13 public disclosure, such as a website posting; and (ii)
14 where applicable, to intermediaries selling the
15 out-of-state program in the same manner that the
16 out-of-state program distributes its offering
17 materials;

18 (D-21) For taxable years beginning on or after
19 January 1, 2007, in the case of transfer of moneys from
20 a qualified tuition program under Section 529 of the
21 Internal Revenue Code that is administered by the State
22 to an out-of-state program, an amount equal to the
23 amount of moneys previously deducted from base income
24 under subsection (a)(2)(Y) of this Section.

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

1 (E) For taxable years ending before December 31,
2 2001, any amount included in such total in respect of
3 any compensation (including but not limited to any
4 compensation paid or accrued to a serviceman while a
5 prisoner of war or missing in action) paid to a
6 resident by reason of being on active duty in the Armed
7 Forces of the United States and in respect of any
8 compensation paid or accrued to a resident who as a
9 governmental employee was a prisoner of war or missing
10 in action, and in respect of any compensation paid to a
11 resident in 1971 or thereafter for annual training
12 performed pursuant to Sections 502 and 503, Title 32,
13 United States Code as a member of the Illinois National
14 Guard or, beginning with taxable years ending on or
15 after December 31, 2007, the National Guard of any
16 other state. For taxable years ending on or after
17 December 31, 2001, any amount included in such total in
18 respect of any compensation (including but not limited
19 to any compensation paid or accrued to a serviceman
20 while a 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 or,
2 beginning with taxable years ending on or after
3 December 31, 2007, the National Guard of any other
4 state. The provisions of this amendatory Act of the
5 92nd General Assembly are exempt from the provisions of
6 Section 250;

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

18 (G) The valuation limitation amount;

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

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

1 (J) An amount equal to those dividends included in
2 such total which were paid by a corporation which
3 conducts business operations in an Enterprise Zone or
4 zones created under the Illinois Enterprise Zone Act or
5 a River Edge Redevelopment Zone or zones created under
6 the River Edge Redevelopment Zone Act, and conducts
7 substantially all of its operations in an Enterprise
8 Zone or zones or a River Edge Redevelopment Zone or
9 zones. This subparagraph (J) is exempt from the
10 provisions of Section 250;

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

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

25 (M) With the exception of any amounts subtracted
26 under subparagraph (N), an amount equal to the sum of

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

12 (N) An amount equal to all amounts included in such
13 total which are exempt from taxation by this State
14 either by reason of its statutes or Constitution or by
15 reason of the Constitution, treaties or statutes of the
16 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 (O) An amount equal to any contribution made to a
22 job training project established pursuant to the Tax
23 Increment Allocation Redevelopment Act;

24 (P) An amount equal to the amount of the deduction
25 used to compute the federal income tax credit for
26 restoration of substantial amounts held under claim of

1 right for the taxable year pursuant to Section 1341 of
2 the Internal Revenue Code of 1986;

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

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

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

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

25 (U) For one taxable year beginning on or after
26 January 1, 1994, an amount equal to the total amount of

1 tax imposed and paid under subsections (a) and (b) of
2 Section 201 of this Act on grant amounts received by
3 the taxpayer under the Nursing Home Grant Assistance
4 Act during the taxpayer's taxable years 1992 and 1993;

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

1 long-term care insurance premiums paid by the taxpayer
2 times a number that represents the fractional
3 percentage of eligible medical expenses under Section
4 213 of the Internal Revenue Code of 1986 not actually
5 deducted on the taxpayer's federal income tax return;

6 (W) For taxable years beginning on or after January
7 1, 1998, all amounts included in the taxpayer's federal
8 gross income in the taxable year from amounts converted
9 from a regular IRA to a Roth IRA. This paragraph is
10 exempt from the provisions of Section 250;

11 (X) For taxable year 1999 and thereafter, an amount
12 equal to the amount of any (i) distributions, to the
13 extent includible in gross income for federal income
14 tax purposes, made to the taxpayer because of his or
15 her status as a victim of persecution for racial or
16 religious reasons by Nazi Germany or any other Axis
17 regime or as an heir of the victim and (ii) items of
18 income, to the extent includible in gross income for
19 federal income tax purposes, attributable to, derived
20 from or in any way related to assets stolen from,
21 hidden from, or otherwise lost to a victim of
22 persecution for racial or religious reasons by Nazi
23 Germany or any other Axis regime immediately prior to,
24 during, and immediately after World War II, including,
25 but not limited to, interest on the proceeds receivable
26 as insurance under policies issued to a victim of

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

18 (Y) For taxable years beginning on or after January
19 1, 2002 and ending on or before December 31, 2004,
20 moneys contributed in the taxable year to a College
21 Savings Pool account under Section 16.5 of the State
22 Treasurer Act, except that amounts excluded from gross
23 income under Section 529(c)(3)(C)(i) of the Internal
24 Revenue Code shall not be considered moneys
25 contributed under this subparagraph (Y). For taxable
26 years beginning on or after January 1, 2005, a maximum

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

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

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

23 (2) for taxable years ending on or before
24 December 31, 2005, "x" equals "y" multiplied by 30
25 and then divided by 70 (or "y" multiplied by
26 0.429); and

1 (3) for taxable years ending after December
2 31, 2005:

3 (i) for property on which a bonus
4 depreciation deduction of 30% of the adjusted
5 basis was taken, "x" equals "y" multiplied by
6 30 and then divided by 70 (or "y" multiplied by
7 0.429); and

8 (ii) for property on which a bonus
9 depreciation deduction of 50% of the adjusted
10 basis was taken, "x" equals "y" multiplied by
11 1.0.

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

20 (AA) If the taxpayer sells, transfers, abandons,
21 or otherwise disposes of property for which the
22 taxpayer was required in any taxable year to make an
23 addition modification under subparagraph (D-15), then
24 an amount equal to that addition modification.

25 If the taxpayer continues to own property through
26 the last day of the last tax year for which the

1 taxpayer may claim a depreciation deduction for
2 federal income tax purposes and for which the taxpayer
3 was required in any taxable year to make an addition
4 modification under subparagraph (D-15), then an amount
5 equal to that addition modification.

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

9 This subparagraph (AA) is exempt from the
10 provisions of Section 250;

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

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

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
2 203(d)(2)(D-8), but not to exceed the amount of that
3 addition modification. This subparagraph (CC) is
4 exempt from the provisions of Section 250;

5 (DD) An amount equal to the interest income taken
6 into account for the taxable year (net of the
7 deductions allocable thereto) with respect to
8 transactions with (i) a foreign person who would be a
9 member of the taxpayer's unitary business group but for
10 the fact that the foreign person's business activity
11 outside the United States is 80% or more of that
12 person's total business activity and (ii) for taxable
13 years ending on or after December 31, 2008, to a person
14 who would be a member of the same unitary business
15 group but for the fact that the person is prohibited
16 under Section 1501(a)(27) from being included in the
17 unitary business group because he or she is ordinarily
18 required to apportion business income under different
19 subsections of Section 304, but not to exceed the
20 addition modification required to be made for the same
21 taxable year under Section 203(a)(2)(D-17) for
22 interest paid, accrued, or incurred, directly or
23 indirectly, to the same person. This subparagraph (DD)
24 is exempt from the provisions of Section 250; and

25 (EF) An amount equal to the income from intangible
26 property taken into account for the taxable year (net

1 of the deductions allocable thereto) with respect to
2 transactions with (i) a foreign person who would be a
3 member of the taxpayer's unitary business group but for
4 the fact that the foreign person's business activity
5 outside the United States is 80% or more of that
6 person's total business activity and (ii) for taxable
7 years ending on or after December 31, 2008, to a person
8 who would be a member of the same unitary business
9 group but for the fact that the person is prohibited
10 under Section 1501(a)(27) from being included in the
11 unitary business group because he or she is ordinarily
12 required to apportion business income under different
13 subsections of Section 304, but not to exceed the
14 addition modification required to be made for the same
15 taxable year under Section 203(a)(2)(D-18) for
16 intangible expenses and costs paid, accrued, or
17 incurred, directly or indirectly, to the same foreign
18 person. This subparagraph (EE) is exempt from the
19 provisions of Section 250.

20 (b) Corporations.

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

24 (2) Modifications. The taxable income referred to in
25 paragraph (1) shall be modified by adding thereto the sum

1 of the following amounts:

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

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

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

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

24 (E) For taxable years in which a net operating loss
25 carryback or carryforward from a taxable year ending
26 prior to December 31, 1986 is an element of taxable

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

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

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

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

1 subparagraph (E) for each such taxable year;

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

7 (E-10) 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 (E-11) 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 (E-10), then
16 an amount equal to the aggregate amount of the
17 deductions taken in all taxable years under
18 subparagraph (T) 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 (T), 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 (E-12) An amount equal to the amount otherwise
4 allowed as a deduction in computing base income for
5 interest paid, accrued, or incurred, directly or
6 indirectly, (i) for taxable years ending on or after
7 December 31, 2004, to a foreign person who would be a
8 member of the same unitary business group but for the
9 fact the foreign person's business activity outside
10 the United States is 80% or more of the foreign
11 person's total business activity and (ii) for taxable
12 years ending on or after December 31, 2008, to a person
13 who would be a member of the same unitary business
14 group but for the fact that the person is prohibited
15 under Section 1501(a)(27) from being included in the
16 unitary business group because he or she is ordinarily
17 required to apportion business income under different
18 subsections of Section 304. The addition modification
19 required by this subparagraph shall be reduced to the
20 extent that dividends were included in base income of
21 the unitary group for the same taxable year and
22 received by the taxpayer or by a member of the
23 taxpayer's unitary business group (including amounts
24 included in gross income pursuant to Sections 951
25 through 964 of the Internal Revenue Code and amounts
26 included in gross income under Section 78 of the

1 Internal Revenue Code) with respect to the stock of the
2 same person to whom the interest was paid, accrued, or
3 incurred.

4 This paragraph shall not apply to the following:

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

11 (ii) an item of interest paid, accrued, or
12 incurred, directly or indirectly, to a person if
13 the taxpayer can establish, based on a
14 preponderance of the evidence, both of the
15 following:

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

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

26 (iii) the taxpayer can establish, based on

1 clear and convincing evidence, that the interest
2 paid, accrued, or incurred relates to a contract or
3 agreement entered into at arm's-length rates and
4 terms and the principal purpose for the payment is
5 not federal or Illinois tax avoidance; or

6 (iv) an item of interest paid, accrued, or
7 incurred, directly or indirectly, to a person if
8 the taxpayer establishes by clear and convincing
9 evidence that the adjustments are unreasonable; or
10 if the taxpayer and the Director agree in writing
11 to the application or use of an alternative method
12 of apportionment under Section 304(f).

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

22 (E-13) An amount equal to the amount of intangible
23 expenses and costs otherwise allowed as a deduction in
24 computing base income, and that were paid, accrued, or
25 incurred, directly or indirectly, (i) for taxable
26 years ending on or after December 31, 2004, to a

1 foreign person who would be a member of the same
2 unitary business group but for the fact that the
3 foreign person's business activity outside the United
4 States is 80% or more of that person's total business
5 activity and (ii) for taxable years ending on or after
6 December 31, 2008, to a person who would be a member of
7 the same unitary business group but for the fact that
8 the person is prohibited under Section 1501(a)(27)
9 from being included in the unitary business group
10 because he or she is ordinarily required to apportion
11 business income under different subsections of Section
12 304. The addition modification required by this
13 subparagraph shall be reduced to the extent that
14 dividends were included in base income of the unitary
15 group for the same taxable year and received by the
16 taxpayer or by a member of the taxpayer's unitary
17 business group (including amounts included in gross
18 income pursuant to Sections 951 through 964 of the
19 Internal Revenue Code and amounts included in gross
20 income under Section 78 of the Internal Revenue Code)
21 with respect to the stock of the same person to whom
22 the intangible expenses and costs were directly or
23 indirectly paid, incurred, or accrued. The preceding
24 sentence shall not apply to the extent that the same
25 dividends caused a reduction to the addition
26 modification required under Section 203(b)(2)(E-12) of

1 this Act. As used in this subparagraph, the term
2 "intangible expenses and costs" includes (1) expenses,
3 losses, and costs for, or related to, the direct or
4 indirect acquisition, use, maintenance or management,
5 ownership, sale, exchange, or any other disposition of
6 intangible property; (2) losses incurred, directly or
7 indirectly, from factoring transactions or discounting
8 transactions; (3) royalty, patent, technical, and
9 copyright fees; (4) licensing fees; and (5) other
10 similar expenses and costs. For purposes of this
11 subparagraph, "intangible property" includes patents,
12 patent applications, trade names, trademarks, service
13 marks, copyrights, mask works, trade secrets, and
14 similar types of intangible 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 person who is
19 subject in a foreign country or state, other than a
20 state which requires mandatory unitary reporting,
21 to a tax on or measured by net income with respect
22 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 person during the same taxable
3 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 person did not have as a
9 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 person if the
16 taxpayer establishes by clear and convincing
17 evidence, that the adjustments are unreasonable;
18 or if the taxpayer and the Director agree in
19 writing to the application or use of an alternative
20 method of apportionment under Section 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 (E-14) For taxable years ending on or after
5 December 31, 2008, an amount equal to the amount of
6 insurance premium expenses and costs otherwise allowed
7 as a deduction in computing base income, and that were
8 paid, accrued, or incurred, directly or indirectly, to
9 a person who would be a member of the same unitary
10 business group but for the fact that the person is
11 prohibited under Section 1501(a)(27) from being
12 included in the unitary business group because he or
13 she is ordinarily required to apportion business
14 income under different subsections of Section 304. The
15 addition modification required by this subparagraph
16 shall be reduced to the extent that dividends were
17 included in base income of the unitary group for the
18 same taxable year and received by the taxpayer or by a
19 member of the taxpayer's unitary business group
20 (including amounts included in gross income under
21 Sections 951 through 964 of the Internal Revenue Code
22 and amounts included in gross income under Section 78
23 of the Internal Revenue Code) with respect to the stock
24 of the same person to whom the premiums and costs were
25 directly or indirectly paid, incurred, or accrued. The
26 preceding sentence does not apply to the extent that

1 the same dividends caused a reduction to the addition
2 modification required under Section 203(b)(2)(E-12) or
3 Section 203(b)(2)(E-13) of this Act;

4 (E-15) For taxable years beginning after December
5 31, 2008, any deduction for dividends paid by a captive
6 real estate investment trust that is allowed to a real
7 estate investment trust under Section 857(b)(2)(B) of
8 the Internal Revenue Code for dividends paid;

9 and by deducting from the total so obtained the sum of the
10 following amounts:

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

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

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

21 (I) With the exception of any amounts subtracted
22 under subparagraph (J), an amount equal to the sum of
23 all amounts disallowed as deductions by (i) Sections
24 171(a)(2), and 265(a)(2) and amounts disallowed as
25 interest expense by Section 291(a)(3) of the Internal
26 Revenue Code, as now or hereafter amended, and all

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

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

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

1 provisions of Section 250;

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

11 (M) For any taxpayer that is a financial
12 organization within the meaning of Section 304(c) of
13 this Act, an amount included in such total as interest
14 income from a loan or loans made by such taxpayer to a
15 borrower, to the extent that such a loan is secured by
16 property which is eligible for the Enterprise Zone
17 Investment Credit or the River Edge Redevelopment Zone
18 Investment Credit. To determine the portion of a loan
19 or loans that is secured by property eligible for a
20 Section 201(f) investment credit to the borrower, the
21 entire principal amount of the loan or loans between
22 the taxpayer and the borrower should be divided into
23 the basis of the Section 201(f) investment credit
24 property which secures the loan or loans, using for
25 this purpose the original basis of such property on the
26 date that it was placed in service in the Enterprise

1 Zone or the River Edge Redevelopment Zone. The
2 subtraction modification available to taxpayer in any
3 year under this subsection shall be that portion of the
4 total interest paid by the borrower with respect to
5 such loan attributable to the eligible property as
6 calculated under the previous sentence. This
7 subparagraph (M) is exempt from the provisions of
8 Section 250;

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

1 (2) of this subsection shall be eligible for the
2 deduction provided under this subparagraph (M-1). The
3 subtraction modification available to taxpayers in any
4 year under this subsection shall be that portion of the
5 total interest paid by the borrower with respect to
6 such loan attributable to the eligible property as
7 calculated under the previous sentence;

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

19 (O) An amount equal to: (i) 85% for taxable years
20 ending on or before December 31, 1992, or, a percentage
21 equal to the percentage allowable under Section
22 243(a)(1) of the Internal Revenue Code of 1986 for
23 taxable years ending after December 31, 1992, of the
24 amount by which dividends included in taxable income
25 and received from a corporation that is not created or
26 organized under the laws of the United States or any

1 state or political subdivision thereof, including, for
2 taxable years ending on or after December 31, 1988,
3 dividends received or deemed received or paid or deemed
4 paid under Sections 951 through 964 of the Internal
5 Revenue Code, exceed the amount of the modification
6 provided under subparagraph (G) of paragraph (2) of
7 this subsection (b) which is related to such dividends,
8 and including, for taxable years ending on or after
9 December 31, 2008, dividends received from a captive
10 real estate investment trust; plus (ii) 100% of the
11 amount by which dividends, included in taxable income
12 and received, including, for taxable years ending on or
13 after December 31, 1988, dividends received or deemed
14 received or paid or deemed paid under Sections 951
15 through 964 of the Internal Revenue Code and including,
16 for taxable years ending on or after December 31, 2008,
17 dividends received from a captive real estate
18 investment trust, from any such corporation specified
19 in clause (i) that would but for the provisions of
20 Section 1504 (b) (3) of the Internal Revenue Code be
21 treated as a member of the affiliated group which
22 includes the dividend recipient, exceed the amount of
23 the modification provided under subparagraph (G) of
24 paragraph (2) of this subsection (b) which is related
25 to such dividends. This subparagraph (O) is exempt from
26 the provisions of Section 250 of this Act;

1 (P) An amount equal to any contribution made to a
2 job training project established pursuant to the Tax
3 Increment Allocation Redevelopment Act;

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

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

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

1 (d) of Section 201 of this Act, including amounts
2 allocable to organizations exempt from federal income
3 tax by reason of Section 501(a) of the Internal Revenue
4 Code. This subparagraph (S) is exempt from the
5 provisions of Section 250;

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

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

19 (2) for taxable years ending on or before
20 December 31, 2005, "x" equals "y" multiplied by 30
21 and then divided by 70 (or "y" multiplied by
22 0.429); and

23 (3) for taxable years ending after December
24 31, 2005:

25 (i) for property on which a bonus
26 depreciation deduction of 30% of the adjusted

1 basis was taken, "x" equals "y" multiplied by
2 30 and then divided by 70 (or "y" multiplied by
3 0.429); and

4 (ii) for property on which a bonus
5 depreciation deduction of 50% of the adjusted
6 basis was taken, "x" equals "y" multiplied by
7 1.0.

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

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

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

1 equal to that addition modification.

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

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

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

1 under Section 203(a)(2)(D-19), Section
2 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
3 203(d)(2)(D-9), but not to exceed the amount of that
4 addition modification. This subparagraph (V) is exempt
5 from the provisions of Section 250;

6 (W) An amount equal to the interest income taken
7 into account for the taxable year (net of the
8 deductions allocable thereto) with respect to
9 transactions with (i) a foreign person who would be a
10 member of the taxpayer's unitary business group but for
11 the fact that the foreign person's business activity
12 outside the United States is 80% or more of that
13 person's total business activity and (ii) for taxable
14 years ending on or after December 31, 2008, to a person
15 who would be a member of the same unitary business
16 group but for the fact that the person is prohibited
17 under Section 1501(a)(27) from being included in the
18 unitary business group because he or she is ordinarily
19 required to apportion business income under different
20 subsections of Section 304, but not to exceed the
21 addition modification required to be made for the same
22 taxable year under Section 203(b)(2)(E-12) for
23 interest paid, accrued, or incurred, directly or
24 indirectly, to the same person. This subparagraph (W)
25 is exempt from the provisions of Section 250; and

26 (X) 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 (i) 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 and (ii) for taxable
8 years ending on or after December 31, 2008, to a person
9 who would be a member of the same unitary business
10 group but for the fact that the person is prohibited
11 under Section 1501(a)(27) from being included in the
12 unitary business group because he or she is ordinarily
13 required to apportion business income under different
14 subsections of Section 304, but not to exceed the
15 addition modification required to be made for the same
16 taxable year under Section 203(b)(2)(E-13) for
17 intangible expenses and costs paid, accrued, or
18 incurred, directly or indirectly, to the same foreign
19 person. This subparagraph (X) is exempt from the
20 provisions of Section 250.

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) An amount equal to the amount otherwise
15 allowed as a deduction in computing base income for
16 interest paid, accrued, or incurred, directly or
17 indirectly, (i) for taxable years ending on or after
18 December 31, 2004, to a foreign person who would be a
19 member of the same unitary business group but for the
20 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 and (ii) for taxable
23 years ending on or after December 31, 2008, to a person
24 who would be a member of the same unitary business
25 group but for the fact that the person is prohibited
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304. The addition modification
4 required by this subparagraph shall be reduced to the
5 extent that dividends were included in base income of
6 the unitary group for the same taxable year and
7 received by the taxpayer or by a member of the
8 taxpayer's unitary business group (including amounts
9 included in gross income pursuant to Sections 951
10 through 964 of the Internal Revenue Code and amounts
11 included in gross income under Section 78 of the
12 Internal Revenue Code) with respect to the stock of the
13 same person to whom the interest was paid, accrued, or
14 incurred.

15 This paragraph shall not apply to the following:

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

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

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

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

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

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

24 Nothing in this subsection shall preclude the
25 Director from making any other adjustment
26 otherwise allowed under Section 404 of this Act for

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

7 (G-13) An amount equal to the amount of intangible
8 expenses and costs otherwise allowed as a deduction in
9 computing base income, and that were paid, accrued, or
10 incurred, directly or indirectly, (i) for taxable
11 years ending on or after December 31, 2004, to a
12 foreign person who would be a member of the same
13 unitary business group but for the fact that the
14 foreign person's business activity outside the United
15 States is 80% or more of that person's total business
16 activity and (ii) for taxable years ending on or after
17 December 31, 2008, to a person who would be a member of
18 the same unitary business group but for the fact that
19 the person is prohibited under Section 1501(a)(27)
20 from being included in the unitary business group
21 because he or she is ordinarily required to apportion
22 business income under different subsections of Section
23 304. The addition modification required by this
24 subparagraph shall be reduced to the extent that
25 dividends were included in base income of the unitary
26 group for the same taxable year and received by the

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

26 This paragraph shall not apply to the following:

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

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

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

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

24 (iii) any item of intangible expense or cost
25 paid, accrued, or incurred, directly or
26 indirectly, from a transaction with a person if the

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

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

15 (G-14) For taxable years ending on or after
16 December 31, 2008, an amount equal to the amount of
17 insurance premium expenses and costs otherwise allowed
18 as a deduction in computing base income, and that were
19 paid, accrued, or incurred, directly or indirectly, to
20 a person who would be a member of the same unitary
21 business group but for the fact that the person is
22 prohibited under Section 1501(a)(27) from being
23 included in the unitary business group because he or
24 she is ordinarily required to apportion business
25 income under different subsections of Section 304. The
26 addition modification required by this subparagraph

1 shall be reduced to the extent that dividends were
2 included in base income of the unitary group for the
3 same taxable year and received by the taxpayer or by a
4 member of the taxpayer's unitary business group
5 (including amounts included in gross income under
6 Sections 951 through 964 of the Internal Revenue Code
7 and amounts included in gross income under Section 78
8 of the Internal Revenue Code) with respect to the stock
9 of the same person to whom the premiums and costs were
10 directly or indirectly paid, incurred, or accrued. The
11 preceding sentence does not apply to the extent that
12 the same dividends caused a reduction to the addition
13 modification required under Section 203(c) (2) (G-12) or
14 Section 203(c) (2) (G-13) of this Act.

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

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

1 thereto;

2 (I) The valuation limitation amount;

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

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

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

1 the Internal Revenue Code; the provisions of this
2 subparagraph are exempt from the provisions of Section
3 250;

4 (M) An amount equal to those dividends included in
5 such total which were paid by a corporation which
6 conducts business operations in an Enterprise Zone or
7 zones created under the Illinois Enterprise Zone Act or
8 a River Edge Redevelopment Zone or zones created under
9 the River Edge Redevelopment Zone Act and conducts
10 substantially all of its operations in an Enterprise
11 Zone or Zones or a River Edge Redevelopment Zone or
12 zones. This subparagraph (M) is exempt from the
13 provisions of Section 250;

14 (N) An amount equal to any contribution made to a
15 job training project established pursuant to the Tax
16 Increment Allocation Redevelopment Act;

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

26 (P) An amount equal to the amount of the deduction

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

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

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

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

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

25 (2) for taxable years ending on or before
26 December 31, 2005, "x" equals "y" multiplied by 30

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

3 (3) for taxable years ending after December
4 31, 2005:

5 (i) for property on which a bonus
6 depreciation deduction of 30% of the adjusted
7 basis was taken, "x" equals "y" multiplied by
8 30 and then divided by 70 (or "y" multiplied by
9 0.429); and

10 (ii) for property on which a bonus
11 depreciation deduction of 50% of the adjusted
12 basis was taken, "x" equals "y" multiplied by
13 1.0.

14 The aggregate amount deducted under this
15 subparagraph in all taxable years for any one piece of
16 property may not exceed the amount of the bonus
17 depreciation deduction taken on that property on the
18 taxpayer's federal income tax return under subsection
19 (k) of Section 168 of the Internal Revenue Code. This
20 subparagraph (R) is exempt from the provisions of
21 Section 250;

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

1 If the taxpayer continues to own property through
2 the last day of the last tax year for which the
3 taxpayer may claim a depreciation deduction for
4 federal income tax purposes and for which the taxpayer
5 was required in any taxable year to make an addition
6 modification under subparagraph (G-10), then an amount
7 equal to that addition modification.

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

11 This subparagraph (S) is exempt from the
12 provisions of Section 250;

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

1 203(d) (2) (D-8), but not to exceed the amount of such
2 addition modification. This subparagraph (T) is exempt
3 from the provisions of Section 250;

4 (U) An amount equal to the interest income taken
5 into account for the taxable year (net of the
6 deductions allocable thereto) with respect to
7 transactions with (i) a foreign person who would be a
8 member of the taxpayer's unitary business group but for
9 the fact the foreign person's business activity
10 outside the United States is 80% or more of that
11 person's total business activity and (ii) for taxable
12 years ending on or after December 31, 2008, to a person
13 who would be a member of the same unitary business
14 group but for the fact that the person is prohibited
15 under Section 1501(a) (27) from being included in the
16 unitary business group because he or she is ordinarily
17 required to apportion business income under different
18 subsections of Section 304, but not to exceed the
19 addition modification required to be made for the same
20 taxable year under Section 203(c) (2) (G-12) for
21 interest paid, accrued, or incurred, directly or
22 indirectly, to the same person. This subparagraph (U)
23 is exempt from the provisions of Section 250; and

24 (V) An amount equal to the income from intangible
25 property taken into account for the taxable year (net
26 of the deductions allocable thereto) with respect to

1 transactions with (i) a foreign person who would be a
2 member of the taxpayer's unitary business group but for
3 the fact that the foreign person's business activity
4 outside the United States is 80% or more of that
5 person's total business activity and (ii) for taxable
6 years ending on or after December 31, 2008, to a person
7 who would be a member of the same unitary business
8 group but for the fact that the person is prohibited
9 under Section 1501(a)(27) from being included in the
10 unitary business group because he or she is ordinarily
11 required to apportion business income under different
12 subsections of Section 304, but not to exceed the
13 addition modification required to be made for the same
14 taxable year under Section 203(c)(2)(G-13) for
15 intangible expenses and costs paid, accrued, or
16 incurred, directly or indirectly, to the same foreign
17 person. This subparagraph (V) is exempt from the
18 provisions of Section 250.

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

1 (d) Partnerships.

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

5 (2) Modifications. The taxable income referred to in
6 paragraph (1) shall be modified by adding thereto the sum
7 of the 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) An amount equal to the amount of tax imposed by
13 this Act to the extent deducted from gross income for
14 the taxable year;

15 (C) The amount of deductions allowed to the
16 partnership pursuant to Section 707 (c) of the Internal
17 Revenue Code in calculating its taxable income;
18 ~~provided that no addition shall be required under this~~
19 ~~subparagraph (C) for taxable years ending on or after~~
20 ~~December 31, 2009, for deductions allowed for~~
21 ~~guaranteed payments to an individual partner for~~
22 ~~personal services by that partner;~~

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

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

6 (D-6) 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-5), then
10 an amount equal to the aggregate amount of the
11 deductions taken in all taxable years under
12 subparagraph (O) with respect to that property.

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

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

23 (D-7) An amount equal to the amount otherwise
24 allowed as a deduction in computing base income for
25 interest paid, accrued, or incurred, directly or
26 indirectly, (i) for taxable years ending on or after

1 December 31, 2004, to a foreign person who would be a
2 member of the same unitary business group but for the
3 fact the foreign person's business activity outside
4 the United States is 80% or more of the foreign
5 person's total business activity and (ii) for taxable
6 years ending on or after December 31, 2008, to a person
7 who would be a member of the same unitary business
8 group but for the fact that the person is prohibited
9 under Section 1501(a)(27) from being included in the
10 unitary business group because he or she is ordinarily
11 required to apportion business income under different
12 subsections of Section 304. The addition modification
13 required by this subparagraph shall be reduced to the
14 extent that dividends were included in base income of
15 the unitary group for the same taxable year and
16 received by the taxpayer or by a member of the
17 taxpayer's unitary business group (including amounts
18 included in gross income pursuant to Sections 951
19 through 964 of the Internal Revenue Code and amounts
20 included in gross income under Section 78 of the
21 Internal Revenue Code) with respect to the stock of the
22 same person to whom the interest was paid, accrued, or
23 incurred.

24 This paragraph shall not apply to the following:

25 (i) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a person who

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

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

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

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

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

26 (iv) an item of interest paid, accrued, or

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

16 (D-8) An amount equal to the amount of intangible
17 expenses and costs otherwise allowed as a deduction in
18 computing base income, and that were paid, accrued, or
19 incurred, directly or indirectly, (i) for taxable
20 years ending on or after December 31, 2004, 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 and (ii) for taxable years ending on or after
26 December 31, 2008, to a person who would be a member of

1 the same unitary business group but for the fact that
2 the person is prohibited under Section 1501(a)(27)
3 from being included in the unitary business group
4 because he or she is ordinarily required to apportion
5 business income under different subsections of Section
6 304. The addition modification required by this
7 subparagraph shall be reduced to the extent that
8 dividends were included in base income of the unitary
9 group for the same taxable year and received by the
10 taxpayer or by a member of the taxpayer's unitary
11 business group (including amounts included in gross
12 income pursuant to Sections 951 through 964 of the
13 Internal Revenue Code and amounts included in gross
14 income under Section 78 of the Internal Revenue Code)
15 with respect to the stock of the same person to whom
16 the intangible expenses and costs were directly or
17 indirectly paid, incurred or accrued. The preceding
18 sentence shall not apply to the extent that the same
19 dividends caused a reduction to the addition
20 modification required under Section 203(d)(2)(D-7) of
21 this Act. As used in this subparagraph, the term
22 "intangible expenses and costs" includes (1) expenses,
23 losses, and costs for, or related to, the direct or
24 indirect acquisition, use, maintenance or management,
25 ownership, sale, exchange, or any other disposition of
26 intangible property; (2) losses incurred, directly or

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

9 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the

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

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

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

24 (D-9) For taxable years ending on or after December
25 31, 2008, an amount equal to the amount of insurance
26 premium expenses and costs otherwise allowed as a

1 deduction in computing base income, and that were paid,
2 accrued, or incurred, directly or indirectly, to a
3 person who would be a member of the same unitary
4 business group but for the fact that the person is
5 prohibited under Section 1501(a)(27) from being
6 included in the unitary business group because he or
7 she is ordinarily required to apportion business
8 income under different subsections of Section 304. The
9 addition modification required by this subparagraph
10 shall be reduced to the extent that dividends were
11 included in base income of the unitary group for the
12 same taxable year and received by the taxpayer or by a
13 member of the taxpayer's unitary business group
14 (including amounts included in gross income under
15 Sections 951 through 964 of the Internal Revenue Code
16 and amounts included in gross income under Section 78
17 of the Internal Revenue Code) with respect to the stock
18 of the same person to whom the premiums and costs were
19 directly or indirectly paid, incurred, or accrued. The
20 preceding sentence does not apply to the extent that
21 the same dividends caused a reduction to the addition
22 modification required under Section 203(d)(2)(D-7) or
23 Section 203(d)(2)(D-8) of this Act.

24 and by deducting from the total so obtained the following
25 amounts:

26 (E) The valuation limitation amount;

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

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

14 (H) ~~Any For taxable years ending before December~~
15 ~~31, 2009,~~ income of the partnership which constitutes
16 personal service income as defined in Section 1348 (b)
17 (1) of the Internal Revenue Code (as in effect December
18 31, 1981) or a reasonable allowance for compensation
19 paid or accrued for services rendered by partners to
20 the partnership, whichever is greater;

21 (I) An amount equal to all amounts of income
22 distributable to an entity subject to the Personal
23 Property Tax Replacement Income Tax imposed by
24 subsections (c) and (d) of Section 201 of this Act
25 including amounts distributable to organizations
26 exempt from federal income tax by reason of Section

1 501(a) of the Internal Revenue Code;

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

15 (K) An amount equal to those dividends included in
16 such total which were paid by a corporation which
17 conducts business operations in an Enterprise Zone or
18 zones created under the Illinois Enterprise Zone Act,
19 enacted by the 82nd General Assembly, or a River Edge
20 Redevelopment Zone or zones created under the River
21 Edge Redevelopment Zone Act and conducts substantially
22 all of its operations in an Enterprise Zone or Zones or
23 from a River Edge Redevelopment Zone or zones. This
24 subparagraph (K) is exempt from the provisions of
25 Section 250;

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

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

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

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

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

23 (1) "y" equals the amount of the depreciation
24 deduction taken for the taxable year on the
25 taxpayer's federal income tax return on property
26 for which the bonus depreciation deduction was

1 taken in any year under subsection (k) of Section
2 168 of the Internal Revenue Code, but not including
3 the bonus depreciation deduction;

4 (2) for taxable years ending on or before
5 December 31, 2005, "x" equals "y" multiplied by 30
6 and then divided by 70 (or "y" multiplied by
7 0.429); and

8 (3) for taxable years ending after December
9 31, 2005:

10 (i) for property on which a bonus
11 depreciation deduction of 30% of the adjusted
12 basis was taken, "x" equals "y" multiplied by
13 30 and then divided by 70 (or "y" multiplied by
14 0.429); and

15 (ii) for property on which a bonus
16 depreciation deduction of 50% of the adjusted
17 basis was taken, "x" equals "y" multiplied by
18 1.0.

19 The aggregate amount deducted under this
20 subparagraph in all taxable years for any one piece of
21 property may not exceed the amount of the bonus
22 depreciation deduction taken on that property on the
23 taxpayer's federal income tax return under subsection
24 (k) of Section 168 of the Internal Revenue Code. This
25 subparagraph (O) is exempt from the provisions of
26 Section 250;

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

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 required in any taxable year to make an addition
11 modification under subparagraph (D-5), then an amount
12 equal to that addition modification.

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

16 This subparagraph (P) is exempt from the
17 provisions of Section 250;

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

1 allocable thereto) taken into account for the taxable
2 year with respect to a transaction with a taxpayer that
3 is required to make an addition modification with
4 respect to such transaction under Section
5 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
6 203(d)(2)(D-8), but not to exceed the amount of such
7 addition modification. This subparagraph (Q) is exempt
8 from Section 250;

9 (R) An amount equal to the interest income taken
10 into account for the taxable year (net of the
11 deductions allocable thereto) with respect to
12 transactions with (i) a foreign person who would be a
13 member of the taxpayer's unitary business group but for
14 the fact that the foreign person's business activity
15 outside the United States is 80% or more of that
16 person's total business activity and (ii) for taxable
17 years ending on or after December 31, 2008, to a person
18 who would be a member of the same unitary business
19 group but for the fact that the person is prohibited
20 under Section 1501(a)(27) from being included in the
21 unitary business group because he or she is ordinarily
22 required to apportion business income under different
23 subsections of Section 304, but not to exceed the
24 addition modification required to be made for the same
25 taxable year under Section 203(d)(2)(D-7) for interest
26 paid, accrued, or incurred, directly or indirectly, to

1 the same person. This subparagraph (R) is exempt from
2 Section 250; and

3 (S) An amount equal to the income from intangible
4 property taken into account for the taxable year (net
5 of the deductions allocable thereto) with respect to
6 transactions with (i) a foreign person who would be a
7 member of the taxpayer's unitary business group but for
8 the fact that the foreign person's business activity
9 outside the United States is 80% or more of that
10 person's total business activity and (ii) for taxable
11 years ending on or after December 31, 2008, to a person
12 who would be a member of the same unitary business
13 group but for the fact that the person is prohibited
14 under Section 1501(a)(27) from being included in the
15 unitary business group because he or she is ordinarily
16 required to apportion business income under different
17 subsections of Section 304, but not to exceed the
18 addition modification required to be made for the same
19 taxable year under Section 203(d)(2)(D-8) for
20 intangible expenses and costs paid, accrued, or
21 incurred, directly or indirectly, to the same person.
22 This subparagraph (S) is exempt from Section 250.

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

24 (1) In general. Subject to the provisions of paragraph

25 (2) and subsection (b) (3), for purposes of this Section

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

1 applied under Section 172 of the Internal Revenue Code or
2 under subparagraph (E) of paragraph (2) of this subsection
3 (e) applied in conjunction with Section 172 of the Internal
4 Revenue Code.

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

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

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

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

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

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

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

18 (G) Subchapter S corporations. In the case of: (i)
19 a Subchapter S corporation for which there is in effect
20 an election for the taxable year under Section 1362 of
21 the Internal Revenue Code, the taxable income of such
22 corporation determined in accordance with Section
23 1363(b) of the Internal Revenue Code, except that
24 taxable income shall take into account those items
25 which are required by Section 1363(b)(1) of the
26 Internal Revenue Code to be separately stated; and (ii)

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

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

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

1 for the business under Section 304 of this Act for the
2 taxable year or the average of the apportionment fractions
3 computed for the business under Section 304 of this Act for
4 the taxable year and for the 2 immediately preceding
5 taxable years.

6 (f) Valuation limitation amount.

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

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

15 (B) The lesser of (i) the sum of the pre-August 1,
16 1969 appreciation amounts (to the extent consisting of
17 capital gain) for all property in respect of which such
18 gain was reported for federal income tax purposes for
19 the taxable year, or (ii) the net capital gain for the
20 taxable year, reduced in either case by any amount of
21 such gain included in the amount determined under
22 subsection (a) (2) (F) or (c) (2) (H).

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

24 (A) If the fair market value of property referred
25 to in paragraph (1) was readily ascertainable on August

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

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

21 (C) The Department shall prescribe such
22 regulations as may be necessary to carry out the
23 purposes of this paragraph.

24 (g) Double deductions. Unless specifically provided
25 otherwise, nothing in this Section shall permit the same item

1 to be deducted more than once.

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

11 (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,
12 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
13 95-876, eff. 8-21-08; 96-45, eff. 7-15-09.)

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