

# SB1973



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB1973

Introduced 2/10/2011, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Makes a technical change in a Section defining base income.

LRB097 10260 HLH 50463 b

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 ~~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 (D-22) For taxable years beginning on or after  
26 January 1, 2009, in the case of a nonqualified

1 withdrawal or refund of moneys from a qualified tuition  
2 program under Section 529 of the Internal Revenue Code  
3 administered by the State that is not used for  
4 qualified expenses at an eligible education  
5 institution, an amount equal to the contribution  
6 component of the nonqualified withdrawal or refund  
7 that was previously deducted from base income under  
8 subsection (a)(2)(y) of this Section, provided that  
9 the withdrawal or refund did not result from the  
10 beneficiary's death or disability;

11 (D-23) An amount equal to the credit allowable to  
12 the taxpayer under Section 218(a) of this Act,  
13 determined without regard to Section 218(c) of this  
14 Act;

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

17 (E) For taxable years ending before December 31,  
18 2001, any amount included in such total in respect of  
19 any compensation (including but not limited to any  
20 compensation paid or accrued to a serviceman while a  
21 prisoner of war or missing in action) paid to a  
22 resident by reason of being on active duty in the Armed  
23 Forces of the United States and in respect of any  
24 compensation paid or accrued to a resident who as a  
25 governmental employee was a prisoner of war or missing  
26 in action, and in respect of any compensation paid to a

1 resident in 1971 or thereafter for annual training  
2 performed pursuant to Sections 502 and 503, Title 32,  
3 United States Code as a member of the Illinois National  
4 Guard or, beginning with taxable years ending on or  
5 after December 31, 2007, the National Guard of any  
6 other state. For taxable years ending on or after  
7 December 31, 2001, any amount included in such total in  
8 respect of any compensation (including but not limited  
9 to any compensation paid or accrued to a serviceman  
10 while a prisoner of war or missing in action) paid to a  
11 resident by reason of being a member of any component  
12 of the Armed Forces of the United States and in respect  
13 of any compensation paid or accrued to a resident who  
14 as a governmental employee was a prisoner of war or  
15 missing in action, and in respect of any compensation  
16 paid to a resident in 2001 or thereafter by reason of  
17 being a member of the Illinois National Guard or,  
18 beginning with taxable years ending on or after  
19 December 31, 2007, the National Guard of any other  
20 state. The provisions of this amendatory Act of the  
21 92nd General Assembly are exempt from the provisions of  
22 Section 250;

23 (F) An amount equal to all amounts included in such  
24 total pursuant to the provisions of Sections 402(a),  
25 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the  
26 Internal Revenue Code, or included in such total as

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

8 (G) The valuation limitation amount;

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

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

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



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

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

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

1           250;

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

11           (O) An amount equal to any contribution made to a  
12 job training project established pursuant to the Tax  
13 Increment Allocation Redevelopment Act;

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

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

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

26           (S) An amount, to the extent included in adjusted

1 gross income, equal to the amount of a contribution  
2 made in the taxable year on behalf of the taxpayer to a  
3 medical care savings account established under the  
4 Medical Care Savings Account Act or the Medical Care  
5 Savings Account Act of 2000 to the extent the  
6 contribution is accepted by the account administrator  
7 as provided in that Act;

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

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

21 (V) Beginning with tax years ending on or after  
22 December 31, 1995 and ending with tax years ending on  
23 or before December 31, 2004, an amount equal to the  
24 amount paid by a taxpayer who is a self-employed  
25 taxpayer, a partner of a partnership, or a shareholder  
26 in a Subchapter S corporation for health insurance or

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

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

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

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

8 (Y) For taxable years beginning on or after January  
9 1, 2002 and ending on or before December 31, 2004,  
10 moneys contributed in the taxable year to a College  
11 Savings Pool account under Section 16.5 of the State  
12 Treasurer Act, except that amounts excluded from gross  
13 income under Section 529(c)(3)(C)(i) of the Internal  
14 Revenue Code shall not be considered moneys  
15 contributed under this subparagraph (Y). For taxable  
16 years beginning on or after January 1, 2005, a maximum  
17 of \$10,000 contributed in the taxable year to (i) a  
18 College Savings Pool account under Section 16.5 of the  
19 State Treasurer Act or (ii) the Illinois Prepaid  
20 Tuition Trust Fund, except that amounts excluded from  
21 gross income under Section 529(c)(3)(C)(i) of the  
22 Internal Revenue Code shall not be considered moneys  
23 contributed under this subparagraph (Y). For purposes  
24 of this subparagraph, contributions made by an  
25 employer on behalf of an employee, or matching  
26 contributions made by an employee, shall be treated as

1 made by the employee. This subparagraph (Y) is exempt  
2 from the provisions of Section 250;

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

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

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

20 (3) for taxable years ending after December  
21 31, 2005:

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

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

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

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

18 If the taxpayer continues to own property through  
19 the last day of the last tax year for which the  
20 taxpayer may claim a depreciation deduction for  
21 federal income tax purposes and for which the taxpayer  
22 was required in any taxable year to make an addition  
23 modification under subparagraph (D-15), then an amount  
24 equal to that addition modification.

25 The taxpayer is allowed to take the deduction under  
26 this subparagraph only once with respect to any one



1 piece of property.

2 This subparagraph (AA) is exempt from the  
3 provisions of Section 250;

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

7 (CC) 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 that addition modification, and (ii) any  
15 income from intangible property (net of the deductions  
16 allocable thereto) taken into account for the taxable  
17 year with respect to a transaction with a taxpayer that  
18 is required to make an addition modification with  
19 respect to such transaction under Section  
20 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
21 203(d)(2)(D-8), but not to exceed the amount of that  
22 addition modification. This subparagraph (CC) is  
23 exempt from the provisions of Section 250;

24 (DD) An amount equal to the interest income taken  
25 into account for the taxable year (net of the  
26 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(a)(2)(D-17) for  
15 interest paid, accrued, or incurred, directly or  
16 indirectly, to the same person. This subparagraph (DD)  
17 is exempt from the provisions of Section 250;

18 (EE) An amount equal to the income from intangible  
19 property taken into account for the taxable year (net  
20 of the deductions allocable thereto) with respect to  
21 transactions with (i) a foreign person who would be a  
22 member of the taxpayer's unitary business group but for  
23 the fact that the foreign person's business activity  
24 outside the United States is 80% or more of that  
25 person's total business activity and (ii) for taxable  
26 years ending on or after December 31, 2008, to a person

1           who would be a member of the same unitary business  
2           group but for the fact that the person is prohibited  
3           under Section 1501(a)(27) from being included in the  
4           unitary business group because he or she is ordinarily  
5           required to apportion business income under different  
6           subsections of Section 304, but not to exceed the  
7           addition modification required to be made for the same  
8           taxable year under Section 203(a)(2)(D-18) for  
9           intangible expenses and costs paid, accrued, or  
10          incurred, directly or indirectly, to the same foreign  
11          person. This subparagraph (EE) is exempt from the  
12          provisions of Section 250; and

13                 (FF) An amount equal to any amount awarded to the  
14          taxpayer during the taxable year by the Court of Claims  
15          under subsection (c) of Section 8 of the Court of  
16          Claims Act for time unjustly served in a State prison.  
17          This subparagraph (FF) is exempt from the provisions of  
18          Section 250.

19          (b) Corporations.

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

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

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

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

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

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

23           (E) For taxable years in which a net operating loss  
24 carryback or carryforward from a taxable year ending  
25 prior to December 31, 1986 is an element of taxable  
26 income under paragraph (1) of subsection (e) or

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

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

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

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

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

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

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

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

25           The taxpayer is required to make the addition  
26 modification under this subparagraph only once with

1 respect to any one piece of property;

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

1 same person to whom the interest was paid, accrued, or  
2 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          (E-13) 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 pursuant to Sections 951 through 964 of the  
18 Internal Revenue Code and amounts included in gross  
19 income under Section 78 of the Internal Revenue Code)  
20 with respect to the stock of the same person to whom  
21 the intangible expenses and costs were directly or  
22 indirectly paid, incurred, or accrued. The preceding  
23 sentence shall not apply to the extent that the same  
24 dividends caused a reduction to the addition  
25 modification required under Section 203(b)(2)(E-12) of  
26 this Act. As used in this subparagraph, the term

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

14 This paragraph shall not apply to the following:

15 (i) any item of intangible expenses or costs  
16 paid, accrued, or incurred, directly or  
17 indirectly, from a transaction with a 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           (E-14) 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(b) (2) (E-12) or  
2 Section 203(b) (2) (E-13) of this Act;

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

8 (E-16) An amount equal to the credit allowable to  
9 the taxpayer under Section 218(a) of this Act,  
10 determined without regard to Section 218(c) of this  
11 Act;

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

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

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

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

24 (I) With the exception of any amounts subtracted  
25 under subparagraph (J), an amount equal to the sum of  
26 all amounts disallowed as deductions by (i) Sections

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

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

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

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

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



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

12 (M-1) For any taxpayer that is a financial  
13 organization within the meaning of Section 304(c) of  
14 this Act, an amount included in such total as interest  
15 income from a loan or loans made by such taxpayer to a  
16 borrower, to the extent that such a loan is secured by  
17 property which is eligible for the High Impact Business  
18 Investment Credit. To determine the portion of a loan  
19 or loans that is secured by property eligible for a  
20 Section 201(h) 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(h) 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 a federally

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

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

22 (O) An amount equal to: (i) 85% for taxable years  
23 ending on or before December 31, 1992, or, a percentage  
24 equal to the percentage allowable under Section  
25 243(a)(1) of the Internal Revenue Code of 1986 for  
26 taxable years ending after December 31, 1992, of the

1 amount by which dividends included in taxable income  
2 and received from a corporation that is not created or  
3 organized under the laws of the United States or any  
4 state or political subdivision thereof, including, for  
5 taxable years ending on or after December 31, 1988,  
6 dividends received or deemed received or paid or deemed  
7 paid under Sections 951 through 964 of the Internal  
8 Revenue Code, exceed the amount of the modification  
9 provided under subparagraph (G) of paragraph (2) of  
10 this subsection (b) which is related to such dividends,  
11 and including, for taxable years ending on or after  
12 December 31, 2008, dividends received from a captive  
13 real estate investment trust; plus (ii) 100% of the  
14 amount by which dividends, included in taxable income  
15 and received, including, for taxable years ending on or  
16 after December 31, 1988, dividends received or deemed  
17 received or paid or deemed paid under Sections 951  
18 through 964 of the Internal Revenue Code and including,  
19 for taxable years ending on or after December 31, 2008,  
20 dividends received from a captive real estate  
21 investment trust, from any such corporation specified  
22 in clause (i) that would but for the provisions of  
23 Section 1504 (b) (3) of the Internal Revenue Code be  
24 treated as a member of the affiliated group which  
25 includes the dividend recipient, exceed the amount of  
26 the modification provided under subparagraph (G) of

1 paragraph (2) of this subsection (b) which is related  
2 to such dividends. This subparagraph (O) is exempt from  
3 the provisions of Section 250 of this Act;

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

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

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

25 (S) For taxable years ending on or after December  
26 31, 1997, in the case of a Subchapter S corporation, an

1 amount equal to all amounts of income allocable to a  
2 shareholder subject to the Personal Property Tax  
3 Replacement Income Tax imposed by subsections (c) and  
4 (d) of Section 201 of this Act, including amounts  
5 allocable to organizations exempt from federal income  
6 tax by reason of Section 501(a) of the Internal Revenue  
7 Code. This subparagraph (S) is exempt from the  
8 provisions of Section 250;

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

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

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

26 (3) for taxable years ending after December

1                   31, 2005:

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

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

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

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

24                  If the taxpayer continues to own property through  
25                  the last day of the last tax year for which the  
26                  taxpayer may claim a depreciation deduction for

1 federal income tax purposes and for which the taxpayer  
2 was required in any taxable year to make an addition  
3 modification under subparagraph (E-10), then an amount  
4 equal to that addition modification.

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

8 This subparagraph (U) is exempt from the  
9 provisions of Section 250;

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

1 into account for the taxable year with respect to a  
2 transaction with a taxpayer that is required to make an  
3 addition modification with respect to such transaction  
4 under Section 203(a)(2)(D-19), Section  
5 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
6 203(d)(2)(D-9), but not to exceed the amount of that  
7 addition modification. This subparagraph (V) is exempt  
8 from the provisions of Section 250;

9 (W) 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(b)(2)(E-12) for  
26 interest paid, accrued, or incurred, directly or



1 indirectly, to the same person. This subparagraph (W)  
2 is exempt from the provisions of Section 250; and

3 (X) 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(b)(2)(E-13) for  
20 intangible expenses and costs paid, accrued, or  
21 incurred, directly or indirectly, to the same foreign  
22 person. This subparagraph (X) is exempt from the  
23 provisions of Section 250.

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

1 the gross investment income for the taxable year.

2 (c) Trusts and estates.

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

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

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

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

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

23 (D) The amount of any net operating loss deduction  
24 taken in arriving at taxable income, other than a net  
25 operating loss carried forward from a taxable year

1 ending prior to December 31, 1986;

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

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

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

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

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

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

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

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

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

26 (G-11) If the taxpayer sells, transfers, abandons,

1 or otherwise disposes of property for which the  
2 taxpayer was required in any taxable year to make an  
3 addition modification under subparagraph (G-10), then  
4 an amount equal to the aggregate amount of the  
5 deductions taken in all taxable years under  
6 subparagraph (R) with respect to that property.

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

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

17 (G-12) An amount equal to the amount otherwise  
18 allowed as a deduction in computing base income for  
19 interest paid, accrued, or incurred, directly or  
20 indirectly, (i) for taxable years ending on or after  
21 December 31, 2004, to a foreign person who would be a  
22 member of the same unitary business group but for the  
23 fact that the foreign person's business activity  
24 outside the United States is 80% or more of the foreign  
25 person's total business activity and (ii) for taxable  
26 years ending on or after December 31, 2008, to a person

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

18                 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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



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

1 trademarks, service marks, copyrights, mask works,  
2 trade secrets, and similar types of intangible assets.

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

18 (G-15) An amount equal to the credit allowable to  
19 the taxpayer under Section 218(a) of this Act,  
20 determined without regard to Section 218(c) of this  
21 Act;

22 and by deducting from the total so obtained the sum of the  
23 following amounts:

24 (H) An amount equal to all amounts included in such  
25 total pursuant to the provisions of Sections 402(a),  
26 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the

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

9 (I) The valuation limitation amount;

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

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

24 (L) With the exception of any amounts subtracted  
25 under subparagraph (K), an amount equal to the sum of  
26 all amounts disallowed as deductions by (i) Sections

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

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

21 (N) An amount equal to any contribution made to a  
22 job training project established pursuant to the Tax  
23 Increment Allocation Redevelopment Act;

24 (O) An amount equal to those dividends included in  
25 such total that were paid by a corporation that  
26 conducts business operations in a federally designated

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

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

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

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

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

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



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

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

10 (3) for taxable years ending after December  
11 31, 2005:

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

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

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

1           subparagraph (R) is exempt from the provisions of  
2           Section 250;

3           (S) If the taxpayer sells, transfers, abandons, or  
4           otherwise disposes of property 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           If the taxpayer continues to own property through  
9           the last day of the last tax year for which the  
10          taxpayer may claim a depreciation deduction for  
11          federal income tax purposes and for which the taxpayer  
12          was required in any taxable year to make an addition  
13          modification under subparagraph (G-10), then an amount  
14          equal to that addition modification.

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

18          This subparagraph (S) is exempt from the  
19          provisions of Section 250;

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

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

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

1 taxable year under Section 203(c)(2)(G-12) for  
2 interest paid, accrued, or incurred, directly or  
3 indirectly, to the same person. This subparagraph (U)  
4 is exempt from the provisions of Section 250; and

5 (V) An amount equal to the income from intangible  
6 property taken into account for the taxable year (net  
7 of the 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(c)(2)(G-13) for  
22 intangible expenses and costs paid, accrued, or  
23 incurred, directly or indirectly, to the same foreign  
24 person. This subparagraph (V) is exempt from the  
25 provisions of Section 250.

26 (3) Limitation. The amount of any modification

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

7 (d) Partnerships.

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

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

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

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

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

24 (D) An amount equal to the amount of the capital  
25 gain deduction allowable under the Internal Revenue

1 Code, to the extent deducted from gross income in the  
2 computation of taxable income;

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

8 (D-6) If the taxpayer sells, transfers, abandons,  
9 or otherwise disposes of property for which the  
10 taxpayer was required in any taxable year to make an  
11 addition modification under subparagraph (D-5), then  
12 an amount equal to the aggregate amount of the  
13 deductions taken in all taxable years under  
14 subparagraph (O) with respect to that property.

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

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

25 (D-7) An amount equal to the amount otherwise  
26 allowed as a deduction in computing base income for

1 interest paid, accrued, or incurred, directly or  
2 indirectly, (i) for taxable years ending on or after  
3 December 31, 2004, to a foreign person who would be a  
4 member of the same unitary business group but for the  
5 fact the foreign person's business activity outside  
6 the United States is 80% or more of the foreign  
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. The addition modification  
15 required by this subparagraph shall be reduced to the  
16 extent that dividends were included in base income of  
17 the unitary group for the same taxable year and  
18 received by the taxpayer or by a member of the  
19 taxpayer's unitary business group (including amounts  
20 included in gross income pursuant to Sections 951  
21 through 964 of the Internal Revenue Code and amounts  
22 included in gross income under Section 78 of the  
23 Internal Revenue Code) with respect to the stock of the  
24 same person to whom the interest was paid, accrued, or  
25 incurred.

26 This paragraph shall not apply to the following:

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

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

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

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

22 (iii) the taxpayer can establish, based on  
23 clear and convincing evidence, that the interest  
24 paid, accrued, or incurred relates to a contract or  
25 agreement entered into at arm's-length rates and  
26 terms and the principal purpose for the payment is



1 not federal or Illinois tax avoidance; or  
2 (iv) an item of interest paid, accrued, or  
3 incurred, directly or indirectly, to a person if  
4 the taxpayer establishes by clear and convincing  
5 evidence that the adjustments are unreasonable; or  
6 if the taxpayer and the Director agree in writing  
7 to the application or use of an alternative method  
8 of apportionment under Section 304(f).

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

18 (D-8) An amount equal to the amount of intangible  
19 expenses and costs otherwise allowed as a deduction in  
20 computing base income, and that were paid, accrued, or  
21 incurred, directly or indirectly, (i) for taxable  
22 years ending on or after December 31, 2004, to a  
23 foreign person who would be a member of the same  
24 unitary business group but for the fact that the  
25 foreign person's business activity outside the United  
26 States is 80% or more of that person's total business

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

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

11 This paragraph shall not apply to the following:

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

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

24 (a) the person during the same taxable  
25 year paid, accrued, or incurred, the  
26 intangible expense or cost to a person that is

1 not a related member, and

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

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

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

26 (D-9) For taxable years ending on or after December

1 31, 2008, an amount equal to the amount of insurance  
2 premium expenses and costs otherwise allowed as a  
3 deduction in computing base income, and that were paid,  
4 accrued, or incurred, directly or indirectly, to a  
5 person who would be a member of the same unitary  
6 business group but for the fact that the person is  
7 prohibited under Section 1501(a)(27) from being  
8 included in the unitary business group because he or  
9 she is ordinarily required to apportion business  
10 income under different subsections of Section 304. The  
11 addition modification required by this subparagraph  
12 shall be reduced to the extent that dividends were  
13 included in base income of the unitary group for the  
14 same taxable year and received by the taxpayer or by a  
15 member of the taxpayer's unitary business group  
16 (including amounts included in gross income under  
17 Sections 951 through 964 of the Internal Revenue Code  
18 and amounts included in gross income under Section 78  
19 of the Internal Revenue Code) with respect to the stock  
20 of the same person to whom the premiums and costs were  
21 directly or indirectly paid, incurred, or accrued. The  
22 preceding sentence does not apply to the extent that  
23 the same dividends caused a reduction to the addition  
24 modification required under Section 203(d)(2)(D-7) or  
25 Section 203(d)(2)(D-8) of this Act;

26 (D-10) An amount equal to the credit allowable to

1           the taxpayer under Section 218(a) of this Act,  
2           determined without regard to Section 218(c) of this  
3           Act;

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

6                   (E) The valuation limitation amount;

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

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

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

26                  (I) An amount equal to all amounts of income

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

23 (Q) The amount of (i) any interest income (net of  
24 the deductions allocable thereto) taken into account  
25 for the taxable year with respect to a transaction with  
26 a taxpayer that is required to make an addition

1 modification with respect to such transaction under  
2 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
3 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
4 the amount of such addition modification and (ii) any  
5 income from intangible property (net of the deductions  
6 allocable thereto) taken into account for the taxable  
7 year with respect to a transaction with a taxpayer that  
8 is required to make an addition modification with  
9 respect to such transaction under Section  
10 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
11 203(d)(2)(D-8), but not to exceed the amount of such  
12 addition modification. This subparagraph (Q) is exempt  
13 from Section 250;

14 (R) An amount equal to the interest income taken  
15 into account for the taxable year (net of the  
16 deductions allocable thereto) with respect to  
17 transactions with (i) a foreign person who would be a  
18 member of the taxpayer's unitary business group but for  
19 the fact that the foreign person's business activity  
20 outside the United States is 80% or more of that  
21 person's total business activity and (ii) for taxable  
22 years ending on or after December 31, 2008, to a person  
23 who would be a member of the same unitary business  
24 group but for the fact that the person is prohibited  
25 under Section 1501(a)(27) from being included in the  
26 unitary business group because he or she is ordinarily

1 required to apportion business income under different  
2 subsections of Section 304, but not to exceed the  
3 addition modification required to be made for the same  
4 taxable year under Section 203(d)(2)(D-7) for interest  
5 paid, accrued, or incurred, directly or indirectly, to  
6 the same person. This subparagraph (R) is exempt from  
7 Section 250; and

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

1           This subparagraph (S) is exempt from Section 250.

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

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

1           subparagraph (E) of paragraph (2) of subsection (c) for  
2           trusts and estates, exceed subtraction modifications, an  
3           addition modification must be made under those  
4           subparagraphs for any other taxable year to which the  
5           taxable income less than zero (net operating loss) is  
6           applied under Section 172 of the Internal Revenue Code or  
7           under subparagraph (E) of paragraph (2) of this subsection  
8           (e) applied in conjunction with Section 172 of the Internal  
9           Revenue Code.

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

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

20                   (B) Certain other insurance companies. In the case  
21                   of mutual insurance companies subject to the tax  
22                   imposed by Section 831 of the Internal Revenue Code,  
23                   insurance company taxable income;

24                   (C) Regulated investment companies. In the case of  
25                   a regulated investment company subject to the tax  
26                   imposed by Section 852 of the Internal Revenue Code,

1 investment company taxable income;

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

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

18 (F) Cooperatives. In the case of a cooperative  
19 corporation or association, the taxable income of such  
20 organization determined in accordance with the  
21 provisions of Section 1381 through 1388 of the Internal  
22 Revenue Code, but without regard to the prohibition  
23 against offsetting losses from patronage activities  
24 against income from nonpatronage activities; except  
25 that a cooperative corporation or association may make  
26 an election to follow its federal income tax treatment

1 of patronage losses and nonpatronage losses. In the  
2 event such election is made, such losses shall be  
3 computed and carried over in a manner consistent with  
4 subsection (a) of Section 207 of this Act and  
5 apportioned by the apportionment factor reported by  
6 the cooperative on its Illinois income tax return filed  
7 for the taxable year in which the losses are incurred.  
8 The election shall be effective for all taxable years  
9 with original returns due on or after the date of the  
10 election. In addition, the cooperative may file an  
11 amended return or returns, as allowed under this Act,  
12 to provide that the election shall be effective for  
13 losses incurred or carried forward for taxable years  
14 occurring prior to the date of the election. Once made,  
15 the election may only be revoked upon approval of the  
16 Director. The Department shall adopt rules setting  
17 forth requirements for documenting the elections and  
18 any resulting Illinois net loss and the standards to be  
19 used by the Director in evaluating requests to revoke  
20 elections. Public Act 96-932 ~~This amendatory Act of the~~  
21 ~~96th General Assembly~~ is declaratory of existing law;

22 (G) Subchapter S corporations. In the case of: (i)  
23 a Subchapter S corporation for which there is in effect  
24 an election for the taxable year under Section 1362 of  
25 the Internal Revenue Code, the taxable income of such  
26 corporation determined in accordance with Section



1           1363(b) of the Internal Revenue Code, except that  
2           taxable income shall take into account those items  
3           which are required by Section 1363(b)(1) of the  
4           Internal Revenue Code to be separately stated; and (ii)  
5           a Subchapter S corporation for which there is in effect  
6           a federal election to opt out of the provisions of the  
7           Subchapter S Revision Act of 1982 and have applied  
8           instead the prior federal Subchapter S rules as in  
9           effect on July 1, 1982, the taxable income of such  
10          corporation determined in accordance with the federal  
11          Subchapter S rules as in effect on July 1, 1982; and

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

19                 (3) Recapture of business expenses on disposition of  
20           asset or business. Notwithstanding any other law to the  
21           contrary, if in prior years income from an asset or  
22           business has been classified as business income and in a  
23           later year is demonstrated to be non-business income, then  
24           all expenses, without limitation, deducted in such later  
25           year and in the 2 immediately preceding taxable years  
26           related to that asset or business that generated the

1 non-business income shall be added back and recaptured as  
2 business income in the year of the disposition of the asset  
3 or business. Such amount shall be apportioned to Illinois  
4 using the greater of the apportionment fraction computed  
5 for the business under Section 304 of this Act for the  
6 taxable year or the average of the apportionment fractions  
7 computed for the business under Section 304 of this Act for  
8 the taxable year and for the 2 immediately preceding  
9 taxable years.

10 (f) Valuation limitation amount.

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

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

19 (B) The lesser of (i) the sum of the pre-August 1,  
20 1969 appreciation amounts (to the extent consisting of  
21 capital gain) for all property in respect of which such  
22 gain was reported for federal income tax purposes for  
23 the taxable year, or (ii) the net capital gain for the  
24 taxable year, reduced in either case by any amount of  
25 such gain included in the amount determined under

1 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

25 (C) The Department shall prescribe such  
26 regulations as may be necessary to carry out the

1           purposes of this paragraph.

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

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

14           (Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286,  
15 eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;  
16 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09;  
17 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff.  
18 8-14-09; 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935,  
19 eff. 6-21-10; 96-1214, eff. 7-22-10; revised 9-16-10.)