



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB1577

Introduced 2/15/2005, by Rep. Joseph M. Lyons

#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/203

from Ch. 120, par. 2-203

Creates the Opportunity Scholarship Act and amends the Illinois Income Tax Act. Provides findings and declarations of policy. Establishes the Opportunity Scholarship Program. Provides that under the program the custodian of a qualifying pupil is entitled to a Tutoring Opportunity Scholarship or a School Opportunity Scholarship to pay for qualified education expenses at participating Chicago elementary and secondary schools or tutoring agencies. Requires the principal of each school in the Chicago school district to notify custodians of qualified pupils of the availability of scholarships. Requires custodians to apply to the State Board of Education for a scholarship and provide documentation as to eligibility. Requires the State Board to issue a scholarship to custodians who have made proper application and to honor the scholarship when presented for payment by a school or tutoring agency pursuant to certain procedures. Provides for the dollar amount of a scholarship and provides that the total amount of scholarships paid under the program may not exceed \$15,000,000 in a school year. Provides that the scholarship may be renewed each year through the 12th grade so long as the pupil and custodian remain eligible. Requires pupils receiving scholarships to be assessed in the same manner as Illinois public school students. Provides that the amount received under the program shall not be considered base income for purposes of Illinois' income tax. Requires the State Board to submit a report to the General Assembly by December 31, 2010. Provides criminal penalties for certain violations. Requires the State Board to adopt rules to implement the Act.

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CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning education.

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

4 Section 1. Short title. This Act may be cited as the  
5 Opportunity Scholarship Act.

6 Section 5. Findings and declaration of policy. The General  
7 Assembly finds and declares the following:

8 (1) By honoring the provision of the Illinois  
9 Constitution that a "fundamental goal of the People of the  
10 State is the educational development of all persons to the  
11 limits of their capacities" and in accepting the  
12 responsibilities under the Bill of Rights (Article I) of  
13 the Illinois Constitution to protect the personal inherent  
14 and inalienable rights of all its citizens to due process  
15 of law and equal protection of the laws, the educational  
16 development of every elementary and secondary school  
17 student serves the public purposes of this State.

18 (2) The freedom of custodians to choose for their  
19 children schools acceptable to their personal educational  
20 convictions is an inherent and inalienable personal right  
21 under the Illinois and federal constitutions; the personal  
22 rights of custodians to such academic freedom stands on its  
23 own constitutional merits; and the imposition on families  
24 of the compulsory education law imposes grave  
25 responsibilities on the General Assembly to safeguard the  
26 academic freedom of choice of schools of custodians and  
27 students.

28 (3) There is a crisis in the elementary and secondary  
29 education programs in Chicago and elsewhere in Illinois.  
30 Many schools and their pupils are performing significantly  
31 below relevant national standards and are unable to access  
32 functions of federal and State law designed to improve

1 their performance. Consequently, many pupils are dropping  
2 out of school before completing the ordinary course of  
3 secondary education or are leaving school without the basic  
4 skills and knowledge that will enable them to find and hold  
5 a job or otherwise become functioning, productive members  
6 of our society.

7 (4) Within Chicago and elsewhere in Illinois there are  
8 many public and nonpublic schools and independent  
9 education services competently and efficiently educating  
10 or contributing to the education of children. Most pupils  
11 in those schools or receiving those services perform at or  
12 above relevant national standards, complete their  
13 secondary education, and matriculate to institutions of  
14 higher education at an extremely high rate. These services  
15 and schools should be accessible to all and should enjoy a  
16 cooperative relationship with public school districts,  
17 schools, and employees of this State.

18 (5) Custodians of school age children in Chicago and  
19 elsewhere in Illinois are frequently unable to enroll their  
20 children in schools that will provide them a quality  
21 education or to access educational programs before or after  
22 school. Sometimes this inability is due to laws, rules, or  
23 administrative decisions that limit parents' freedom to  
24 select schools that they believe can provide their children  
25 with a quality education. Sometimes this inability is due  
26 to the parents' lack of standing to influence the  
27 educational policies and procedures of the schools their  
28 children attend or lack of funds to pay for a quality  
29 education.

30 (6) Adopting a pilot opportunity scholarship program  
31 for Chicago, with the potential to expand elsewhere in  
32 Illinois, would enable parents to select schools or  
33 services they believe will provide a quality education for  
34 their children, empower them to influence the educational  
35 policies and procedures in the schools their children  
36 attend, and provide them with at least a portion of the

1 funds necessary to pay for a quality education. Such a  
2 program would help alleviate the crisis in the Chicago  
3 school system, assist Chicago children in becoming  
4 productive members of society, and test a new approach to  
5 education that could be expanded to the rest of the State.

6 (7) The provisions of this Act are in the public  
7 interest, for the public benefit, and serve a secular  
8 public purpose.

9 Section 10. Definitions. As used in this Act:

10 "Base year" means the 2005-2006 school year.

11 "Custodian" means, with respect to a qualifying pupil, a  
12 parent or legal guardian:

13 (1) who is a resident of the City of Chicago; and

14 (2) whose gross family income does not exceed 300% of  
15 the poverty guidelines updated periodically in the Federal  
16 Register by the U.S. Department of Health and Human  
17 Services.

18 "Qualified education expenses" means costs reasonably  
19 incurred on behalf of a qualifying pupil for the services of a  
20 participating tutoring agency or for services of a  
21 participating school in which the qualifying pupil is enrolled  
22 during the regular school year. Qualified education expenses  
23 does not include costs incurred for supplies or  
24 extra-curricular activities.

25 "Qualifying pupil" means an individual who:

26 (1) is a resident of the City of Chicago;

27 (2) is under the age of 21 at the close of the school  
28 year for which a scholarship is sought; and

29 (3) during the school year for which a scholarship is  
30 sought, is a full-time pupil enrolled in a kindergarten  
31 through 12th grade education program at any school as  
32 defined in this Act.

33 "School" means any public or nonpublic elementary or  
34 secondary school in the City of Chicago that elects to  
35 participate in the scholarship program established under this

1 Act and does not discriminate on the basis of race, color, or  
2 national origin under Title VI of the Civil Rights Act of 1964  
3 and attendance at which satisfies the requirements of Section  
4 26-1 of the School Code, except that nothing in Section 26-1  
5 shall be construed to require a child to attend any particular  
6 public or nonpublic school.

7 "School Opportunity Scholarship" means a written  
8 instrument issued by the State Board of Education directly to  
9 the custodian of a qualifying pupil. The instrument shall be  
10 for a sum certain to be paid within a designated period of  
11 time. The custodian may present the instrument only to a  
12 participating school as payment for qualified education  
13 expenses incurred on behalf of the qualifying pupil.

14 "Tutoring agency" means any entity that elects to  
15 participate in the scholarship program and is approved by the  
16 State Board of Education for providing tutoring to qualifying  
17 pupils.

18 "Tutoring Opportunity Scholarship" means a written  
19 instrument with which a custodian of a qualifying pupil may pay  
20 a participating tutoring agency for qualified education  
21 expenses incurred on behalf of the qualifying pupil. The  
22 scholarship shall require the State Board of Education to pay  
23 the participating tutoring agency a sum certain within a  
24 designated time period.

25 Section 15. Establishment of program. There is established  
26 the Opportunity Scholarship Program. Under the program, after  
27 the base year, a custodian of a qualifying pupil shall be  
28 entitled to his or her choice of a Tutoring Opportunity  
29 Scholarship for payment of qualified education expenses  
30 incurred on behalf of the qualifying pupil for the services of  
31 a participating tutoring agency or a School Opportunity  
32 Scholarship for payment of qualified education expenses  
33 incurred on behalf of the qualifying pupil at any participating  
34 school in which the qualifying pupil is enrolled. A qualifying  
35 pupil shall be entitled to enroll at and attend any

1 participating public or nonpublic school of his or her choice.  
2 Each school year, no more than half of new Tutoring or School  
3 Opportunity Scholarships awarded may go to custodians whose  
4 children were previously enrolled in a nonpublic school.

5 Section 20. Notification of scholarships. The principal of  
6 each school in City of Chicago School District 299 shall notify  
7 custodians of qualifying pupils that scholarships under this  
8 Act are available for the next school year. Notification shall  
9 occur in January of each school year beginning with the base  
10 year.

11 Section 25. Request for scholarship. A custodian who  
12 applies in accordance with procedures established by the State  
13 Board of Education shall receive the chosen scholarship under  
14 this Act within the dollar limits set out in this Act. The  
15 procedure shall require application for the scholarship, with  
16 documentation as to eligibility, between March 1 and May 1  
17 prior to the school year in which the scholarship is to be  
18 used.

19 Section 30. Issuance and payment of scholarship. A  
20 scholarship may only be issued to a custodian who has made  
21 proper application pursuant to Section 25 of this Act. The  
22 custodian shall present the scholarship to a participating  
23 tutoring agency or school of his or her choice as payment for  
24 qualified education expenses. Upon presentment, the State  
25 Board of Education shall honor the scholarship and, as issuer  
26 of the instrument, pay the participating tutoring agency or  
27 school in accordance with procedures established by the State  
28 Board of Education. The procedures shall require all of the  
29 following:

30 (1) that the applying custodian be notified of the  
31 scholarship award by August 1 of the school year in which  
32 the scholarship is to be used;

33 (2) that the scholarship instrument be issued to the

1           custodian no later than September 15 of the school year in  
2           which the scholarship is to be used;

3           (3) that the custodian present the scholarship  
4           instrument to the participating tutoring agency or school  
5           no later than October 1 of the school year in which the  
6           scholarship is to be used;

7           (4) that the participating tutoring agency or school  
8           present the scholarship instrument, with proof of service  
9           to the custodian of the qualifying pupil, to the State  
10          Board of Education no later than October 31 of the school  
11          year in which the scholarship is to be used;

12          (5) that the State Board of Education shall honor the  
13          scholarship instrument and as issuer pay the participating  
14          tutoring agency or school no later than December 31 of the  
15          school year in which the scholarship is to be used; and

16          (6) that participating tutoring agencies or schools  
17          must not be required to accept scholarships as full payment  
18          for services but neither shall they charge scholarship  
19          pupils tuition or any other educational expenses at a  
20          higher rate than other pupils.

21          Section 35. Amount of scholarship. A Tutoring Opportunity  
22          Scholarship for qualified education expenses incurred through  
23          participating tutoring agencies during any school year after  
24          the base year shall be for the lesser of (i) \$500 or (ii) the  
25          actual qualified education expenses related to the qualifying  
26          pupil's tutoring. A School Opportunity Scholarship for  
27          qualified education expenses incurred through participating  
28          schools during any school year after the base year shall be for  
29          the lesser of (i) \$3,500 or (ii) the actual qualified education  
30          expenses related to the qualifying pupil's enrollment.

31          Section 40. Renewal of scholarship. Tutoring and School  
32          Opportunity Scholarships shall be renewable every year through  
33          grade 12 so long as the qualifying pupil and custodian continue  
34          to remain eligible pursuant to Section 10 of this Act.

1           Section 45. Assessment. All pupils receiving services  
2 obtained through Opportunity Scholarships shall be assessed  
3 annually in the same manner as Illinois' public school  
4 students. Participating schools shall be responsible for  
5 administering the assessments and reporting the results to the  
6 State Board of Education.

7           Section 50. Funding. In no year may the total amount of  
8 scholarships paid under the provisions of this Act exceed  
9 \$15,000,000. If the amount needed to fund scholarships for all  
10 qualifying pupils exceeds \$15,000,000 in any year, the State  
11 Board of Education shall determine an equitable way to allocate  
12 the \$15,000,000 among the qualifying pupils consistent with the  
13 stated purpose and policy of this Act.

14           Section 55. Not base income. The amount of any scholarship  
15 redeemed under this Act shall not be considered base income  
16 under subsection (a) of Section 203 of the Illinois Income Tax  
17 Act and shall not be taxable for Illinois income tax purposes.

18           Section 60. Report and expansion. On or before December 31,  
19 2010, the State Board of Education shall submit a report to the  
20 General Assembly reviewing the current status of the program  
21 operating under this Act. This report shall include, but not be  
22 limited to, the numbers of qualifying pupils receiving each  
23 Opportunity Scholarship, the names of the schools from which  
24 and to which pupils transferred, the financial ramifications of  
25 the program, and the results of pupil assessments. If the State  
26 Board of Education finds the program both financially and  
27 academically beneficial, it shall recommend expansion of the  
28 program to the General Assembly no later than December 31,  
29 2011. If the General Assembly concurs by law, then any school  
30 district outside the City of Chicago may elect to participate  
31 in the program subject to the parameters, other than geographic  
32 requirements, defined in this Act.



1           Section 65. Penalties. It shall be a Class 3 felony to use  
2 or attempt to use a scholarship under this Act for any purpose  
3 other than those permitted by this Act. It shall also be a  
4 Class 3 felony for any person, with intent to defraud, to  
5 knowingly forge, alter, or misrepresent information on a  
6 scholarship application or on any documents submitted in  
7 application for a scholarship, to deliver any such document  
8 knowing it to have been thus forged, altered, or based on  
9 misrepresentation, or to possess, with intent to issue or  
10 deliver, any such document knowing it to have been thus forged,  
11 altered, or based on misrepresentation.

12           Section 70. Rules. The State Board of Education shall adopt  
13 rules to implement this Act. The creation of the Opportunity  
14 Scholarship Program does not expand the regulatory authority of  
15 the State, its officers, or any school district to impose any  
16 additional regulation of nonpublic schools beyond those  
17 reasonably necessary to enforce the requirements of the  
18 program.

19           Section 900. The Illinois Income Tax Act is amended by  
20 changing Section 203 as follows:

21           (35 ILCS 5/203) (from Ch. 120, par. 2-203)

22           Sec. 203. Base income defined.

23           (a) Individuals.

24           (1) In general. In the case of an individual, base  
25 income means an amount equal to the taxpayer's adjusted  
26 gross income for the taxable year as modified by paragraph  
27 (2).

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

31           (A) An amount equal to all amounts paid or accrued  
32 to the taxpayer as interest or dividends during the

1 taxable year to the extent excluded from gross income  
2 in the computation of adjusted gross income, except  
3 stock dividends of qualified public utilities  
4 described in Section 305(e) of the Internal Revenue  
5 Code;

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 adjusted gross income for the  
9 taxable year;

10 (C) An amount equal to the amount received during  
11 the taxable year as a recovery or refund of real  
12 property taxes paid with respect to the taxpayer's  
13 principal residence under the Revenue Act of 1939 and  
14 for which a deduction was previously taken under  
15 subparagraph (L) of this paragraph (2) prior to July 1,  
16 1991, the retrospective application date of Article 4  
17 of Public Act 87-17. In the case of multi-unit or  
18 multi-use structures and farm dwellings, the taxes on  
19 the taxpayer's principal residence shall be that  
20 portion of the total taxes for the entire property  
21 which is attributable to such principal residence;

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

26 (D-5) An amount, to the extent not included in  
27 adjusted gross income, equal to the amount of money  
28 withdrawn by the taxpayer in the taxable year from a  
29 medical care savings account and the interest earned on  
30 the account in the taxable year of a withdrawal  
31 pursuant to subsection (b) of Section 20 of the Medical  
32 Care Savings Account Act or subsection (b) of Section  
33 20 of the Medical Care Savings Account Act of 2000;

34 (D-10) For taxable years ending after December 31,  
35 1997, an amount equal to any eligible remediation costs  
36 that the individual deducted in computing adjusted

1 gross income and for which the individual claims a  
2 credit under subsection (l) of Section 201;

3 (D-15) For taxable years 2001 and thereafter, an  
4 amount equal to the bonus depreciation deduction (30%  
5 of the adjusted basis of the qualified property) taken  
6 on the taxpayer's federal income tax return for the  
7 taxable year under subsection (k) of Section 168 of the  
8 Internal Revenue Code;

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

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

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

1 gross income under Section 78 of the Internal Revenue  
2 Code) with respect to the stock of the same person to  
3 whom the interest was paid, accrued, or incurred.

4 This paragraph shall not apply to the following:

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

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

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

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

27 (iii) the taxpayer can establish, based on  
28 clear and convincing evidence, that the interest  
29 paid, accrued, or incurred relates to a contract or  
30 agreement entered into at arm's-length rates and  
31 terms and the principal purpose for the payment is  
32 not federal or Illinois tax avoidance; or

33 (iv) an item of interest paid, accrued, or  
34 incurred, directly or indirectly, to a foreign  
35 person if the taxpayer establishes by clear and  
36 convincing evidence that the adjustments are

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

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

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

1 Section 203(a)(2)(D-17) of this Act. As used in this  
2 subparagraph, the term "intangible expenses and costs"  
3 includes (1) expenses, losses, and costs for, or  
4 related to, the direct or indirect acquisition, use,  
5 maintenance or management, ownership, sale, exchange,  
6 or any other disposition of intangible property; (2)  
7 losses incurred, directly or indirectly, from  
8 factoring transactions or discounting transactions;  
9 (3) royalty, patent, technical, and copyright fees;  
10 (4) licensing fees; and (5) other similar expenses and  
11 costs. For purposes of this subparagraph, "intangible  
12 property" includes patents, patent applications, trade  
13 names, trademarks, service marks, copyrights, mask  
14 works, trade secrets, and similar types of intangible  
15 assets.

16 This paragraph shall not apply to the following:

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

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

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

33 (b) the transaction giving rise to the  
34 intangible expense or cost between the  
35 taxpayer and the foreign person did not have as  
36 a principal purpose the avoidance of Illinois

1 income tax, and is paid pursuant to a contract  
2 or agreement that reflects arm's-length terms;  
3 or

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

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

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

31 and by deducting from the total so obtained the sum of the  
32 following amounts:

33 (E) For taxable years ending before December 31,  
34 2001, any amount included in such total in respect of  
35 any compensation (including but not limited to any  
36 compensation paid or accrued to a serviceman while a

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

24 (F) 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  
27 Internal Revenue Code, or included in such total as  
28 distributions under the provisions of any retirement  
29 or disability plan for employees of any governmental  
30 agency or unit, or retirement payments to retired  
31 partners, which payments are excluded in computing net  
32 earnings from self employment by Section 1402 of the  
33 Internal Revenue Code and regulations adopted pursuant  
34 thereto;

35 (G) The valuation limitation amount;

36 (H) An amount equal to the amount of any tax



1 imposed by this Act which was refunded to the taxpayer  
2 and included in such total for the taxable year;

3 (I) An amount equal to all amounts included in such  
4 total pursuant to the provisions of Section 111 of the  
5 Internal Revenue Code as a recovery of items previously  
6 deducted from adjusted gross income in the computation  
7 of taxable income;

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

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

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

28 (M) With the exception of any amounts subtracted  
29 under subparagraph (N), an amount equal to the sum of  
30 all amounts disallowed as deductions by (i) Sections  
31 171(a) (2), and 265(2) of the Internal Revenue Code of  
32 1954, as now or hereafter amended, and all amounts of  
33 expenses allocable to interest and disallowed as  
34 deductions by Section 265(1) of the Internal Revenue  
35 Code of 1954, as now or hereafter amended; and (ii) for  
36 taxable years ending on or after August 13, 1999,

1 Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of  
2 the Internal Revenue Code; the provisions of this  
3 subparagraph are exempt from the provisions of Section  
4 250;

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

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

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

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

29 (S) An amount, to the extent included in adjusted  
30 gross income, equal to the amount of a contribution  
31 made in the taxable year on behalf of the taxpayer to a  
32 medical care savings account established under the  
33 Medical Care Savings Account Act or the Medical Care  
34 Savings Account Act of 2000 to the extent the  
35 contribution is accepted by the account administrator  
36 as provided in that Act;

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

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

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

1 times a number that represents the fractional  
2 percentage of eligible medical expenses under Section  
3 213 of the Internal Revenue Code of 1986 not actually  
4 deducted on the taxpayer's federal income tax return;

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

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

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

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

25 (Z) For taxable years 2001 and thereafter, for the  
26 taxable year in which the bonus depreciation deduction  
27 (30% of the adjusted basis of the qualified property)  
28 is taken on the taxpayer's federal income tax return  
29 under subsection (k) of Section 168 of the Internal  
30 Revenue Code and for each applicable taxable year  
31 thereafter, an amount equal to "x", where:

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

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

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

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

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

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

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

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

1 is required to make an addition modification with  
2 respect to such transaction under Section  
3 203(a)(2)(D-18), 203(b)(2)(E-14), 203(c)(2)(G-13), or  
4 203(d)(2)(D-8), but not to exceed the amount of that  
5 addition modification;

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

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 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, but not to exceed the  
26 addition modification required to be made for the same  
27 taxable year under Section 203(a)(2)(D-18) for  
28 intangible expenses and costs paid, accrued, or  
29 incurred, directly or indirectly, to the same foreign  
30 person.

31 (FF) For taxable years ending on or after December  
32 31, 2005, an amount, to the extent that it is included  
33 in adjusted gross income, equal to any scholarship  
34 redeemed under the Opportunity Scholarship Act. This  
35 subparagraph is exempt from the provisions of Section  
36 250.

1 (b) Corporations.

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

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

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

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

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

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

30 (E) For taxable years in which a net operating loss  
31 carryback or carryforward from a taxable year ending  
32 prior to December 31, 1986 is an element of taxable  
33 income under paragraph (1) of subsection (e) or  
34 subparagraph (E) of paragraph (2) of subsection (e),  
35 the amount by which addition modifications other than



1 those provided by this subparagraph (E) exceeded  
2 subtraction modifications in such earlier taxable  
3 year, with the following limitations applied in the  
4 order that they are listed:

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

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

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

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

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

36 (E-11) If the taxpayer reports a capital gain or

1 loss on the taxpayer's federal income tax return for  
2 the taxable year based on a sale or transfer of  
3 property for which the taxpayer was required in any  
4 taxable year to make an addition modification under  
5 subparagraph (E-10), then an amount equal to the  
6 aggregate amount of the deductions taken in all taxable  
7 years under subparagraph (T) with respect to that  
8 property.

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

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

32 This paragraph shall not apply to the following:

33 (i) an item of interest paid, accrued, or  
34 incurred, directly or indirectly, to a foreign  
35 person who is subject in a foreign country or  
36 state, other than a state which requires mandatory

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

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

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

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

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

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

33 Nothing in this subsection shall preclude the  
34 Director from making any other adjustment  
35 otherwise allowed under Section 404 of this Act for  
36 any tax year beginning after the effective date of

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

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

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

8 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

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

1 832(b)(5)(B)(i) of the Internal Revenue Code; the  
2 provisions of this subparagraph are exempt from the  
3 provisions of Section 250;

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

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

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

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

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

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  
27 designated Foreign Trade Zone or Sub-Zone located in  
28 Illinois. No taxpayer that is eligible for the  
29 deduction provided in subparagraph (M) of paragraph  
30 (2) of this subsection shall be eligible for the  
31 deduction provided under this subparagraph (M-1). The  
32 subtraction modification available to taxpayers in any  
33 year under this subsection shall be that portion of the  
34 total interest paid by the borrower with respect to  
35 such loan attributable to the eligible property as  
36 calculated under the previous sentence;



1           (N) Two times any contribution made during the  
2 taxable year to a designated zone organization to the  
3 extent that the contribution (i) qualifies as a  
4 charitable contribution under subsection (c) of  
5 Section 170 of the Internal Revenue Code and (ii) must,  
6 by its terms, be used for a project approved by the  
7 Department of Commerce and Economic Opportunity under  
8 Section 11 of the Illinois Enterprise Zone Act;

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

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

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

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

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

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

36           (1) "y" equals the amount of the depreciation

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

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

10 The aggregate amount deducted under this  
11 subparagraph in all taxable years for any one piece of  
12 property may not exceed the amount of the bonus  
13 depreciation deduction (30% of the adjusted basis of  
14 the qualified property) 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;

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

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

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

1 year with respect to a transaction with a taxpayer that  
2 is required to make an addition modification with  
3 respect to such transaction under Section  
4 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
5 203(d)(2)(D-8), but not to exceed the amount of such  
6 addition modification;

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

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

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

1 (c) Trusts and estates.

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

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

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

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

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

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

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

36 (i) the addition modification relating to the

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

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

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

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

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

30 (G-5) For taxable years ending after December 31,  
31 1997, an amount equal to any eligible remediation costs  
32 that the trust or estate deducted in computing adjusted  
33 gross income and for which the trust or estate claims a  
34 credit under subsection (1) of Section 201;

35 (G-10) For taxable years 2001 and thereafter, an  
36 amount equal to the bonus depreciation deduction (30%

1 of the adjusted basis of the qualified property) taken  
2 on the taxpayer's federal income tax return for the  
3 taxable year under subsection (k) of Section 168 of the  
4 Internal Revenue Code; and

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

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

1 This paragraph shall not apply to the following:

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

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

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

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

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

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



1           304(f).

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

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

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

13 This paragraph shall not apply to the following:

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

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

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

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

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

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

19 and by deducting from the total so obtained the sum of the  
20 following amounts:

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

32 (I) The valuation limitation amount;

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

36 (K) An amount equal to all amounts included in

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

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

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

30 (N) An amount equal to any contribution made to a  
31 job training project established pursuant to the Tax  
32 Increment Allocation Redevelopment Act;

33 (O) An amount equal to those dividends included in  
34 such total that were paid by a corporation that  
35 conducts business operations in a federally designated  
36 Foreign Trade Zone or Sub-Zone and that is designated a

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

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

11 (Q) For taxable year 1999 and thereafter, an amount  
12 equal to the amount of any (i) distributions, to the  
13 extent includible in gross income for federal income  
14 tax purposes, made to the taxpayer because of his or  
15 her status as a victim of persecution for racial or  
16 religious reasons by Nazi Germany or any other Axis  
17 regime or as an heir of the victim and (ii) items of  
18 income, to the extent includible in gross income for  
19 federal income tax purposes, attributable to, derived  
20 from or in any way related to assets stolen from,  
21 hidden from, or otherwise lost to a victim of  
22 persecution for racial or religious reasons by Nazi  
23 Germany or any other Axis regime immediately prior to,  
24 during, and immediately after World War II, including,  
25 but not limited to, interest on the proceeds receivable  
26 as insurance under policies issued to a victim of  
27 persecution for racial or religious reasons by Nazi  
28 Germany or any other Axis regime by European insurance  
29 companies immediately prior to and during World War II;  
30 provided, however, this subtraction from federal  
31 adjusted gross income does not apply to assets acquired  
32 with such assets or with the proceeds from the sale of  
33 such assets; provided, further, this paragraph shall  
34 only apply to a taxpayer who was the first recipient of  
35 such assets after their recovery and who is a victim of  
36 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 (R) For taxable years 2001 and thereafter, for the  
9 taxable year in which the bonus depreciation deduction  
10 (30% of the adjusted basis of the qualified property)  
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 (30% of  
19 the adjusted basis of the qualified property) was  
20 taken in any year under subsection (k) of Section  
21 168 of the Internal Revenue Code, but not including  
22 the bonus depreciation deduction; and

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

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

32 (S) If the taxpayer reports a capital gain or loss  
33 on the taxpayer's federal income tax return for the  
34 taxable year based on a sale or transfer of property  
35 for which the taxpayer was required in any taxable year  
36 to make an addition modification under subparagraph

1 (G-10), then an amount equal to that addition  
2 modification.

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

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

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

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

1 transactions with 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, but not to exceed the  
6 addition modification required to be made for the same  
7 taxable year under Section 203(c)(2)(G-13) for  
8 intangible expenses and costs paid, accrued, or  
9 incurred, directly or indirectly, to the same foreign  
10 person.

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

18 (d) Partnerships.

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

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

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

29 (B) An amount equal to the amount of tax imposed by  
30 this Act to the extent deducted from gross income for  
31 the taxable year;

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

35 (D) An amount equal to the amount of the capital



1 gain deduction allowable under the Internal Revenue  
2 Code, to the extent deducted from gross income in the  
3 computation of taxable income;

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

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

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

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

1 Internal Revenue Code and amounts included in gross  
2 income under Section 78 of the Internal Revenue Code)  
3 with respect to the stock of the same person to whom  
4 the interest was paid, accrued, or incurred.

5 This paragraph shall not apply to the following:

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

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

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

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

28 (iii) the taxpayer can establish, based on  
29 clear and convincing evidence, that the interest  
30 paid, accrued, or incurred relates to a contract or  
31 agreement entered into at arm's-length rates and  
32 terms and the principal purpose for the payment is  
33 not federal or Illinois tax avoidance; or

34 (iv) an item of interest paid, accrued, or  
35 incurred, directly or indirectly, to a foreign  
36 person if the taxpayer establishes by clear and

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

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

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

1 reduction to the addition modification required under  
2 Section 203(d)(2)(D-7) of this Act. As used in this  
3 subparagraph, the term "intangible expenses and costs"  
4 includes (1) expenses, losses, and costs for, or  
5 related to, the direct or indirect acquisition, use,  
6 maintenance or management, ownership, sale, exchange,  
7 or any other disposition of intangible property; (2)  
8 losses incurred, directly or indirectly, from  
9 factoring transactions or discounting transactions;  
10 (3) royalty, patent, technical, and copyright fees;  
11 (4) licensing fees; and (5) other similar expenses and  
12 costs. For purposes of this subparagraph, "intangible  
13 property" includes patents, patent applications, trade  
14 names, trademarks, service marks, copyrights, mask  
15 works, trade secrets, and similar types of intangible  
16 assets;

17 This paragraph shall not apply to the following:

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

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

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

34 (b) the transaction giving rise to the  
35 intangible expense or cost between the  
36 taxpayer and the foreign person did not have as

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

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

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

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

25 (E) The valuation limitation amount;

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

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

1 this Act, the amount exempted shall be the interest net  
2 of bond premium amortization;

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

9 (I) An amount equal to all amounts of income  
10 distributable to an entity subject to the Personal  
11 Property Tax Replacement Income Tax imposed by  
12 subsections (c) and (d) of Section 201 of this Act  
13 including amounts distributable to organizations  
14 exempt from federal income tax by reason of Section  
15 501(a) of the Internal Revenue Code;

16 (J) With the exception of any amounts subtracted  
17 under subparagraph (G), an amount equal to the sum of  
18 all amounts disallowed as deductions by (i) Sections  
19 171(a) (2), and 265(2) of the Internal Revenue Code of  
20 1954, as now or hereafter amended, and all amounts of  
21 expenses allocable to interest and disallowed as  
22 deductions by Section 265(1) of the Internal Revenue  
23 Code, as now or hereafter amended; and (ii) for taxable  
24 years ending on or after August 13, 1999, Sections  
25 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the  
26 Internal Revenue Code; the provisions of this  
27 subparagraph are exempt from the provisions of Section  
28 250;

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (R) An amount equal to the interest income taken  
32 into account for the taxable year (net of the  
33 deductions allocable thereto) with respect to  
34 transactions with a foreign person who would be a  
35 member of the taxpayer's unitary business group but for  
36 the fact that the foreign person's business activity



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

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

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

21 (1) In general. Subject to the provisions of paragraph  
22 (2) and subsection (b) (3), for purposes of this Section  
23 and Section 803(e), a taxpayer's gross income, adjusted  
24 gross income, or taxable income for the taxable year shall  
25 mean the amount of gross income, adjusted gross income or  
26 taxable income properly reportable for federal income tax  
27 purposes for the taxable year under the provisions of the  
28 Internal Revenue Code. Taxable income may be less than  
29 zero. However, for taxable years ending on or after  
30 December 31, 1986, net operating loss carryforwards from  
31 taxable years ending prior to December 31, 1986, may not  
32 exceed the sum of federal taxable income for the taxable  
33 year before net operating loss deduction, plus the excess  
34 of addition modifications over subtraction modifications  
35 for the taxable year. For taxable years ending prior to

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

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

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

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

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

36 (D) Real estate investment trusts. In the case of a

1 real estate investment trust subject to the tax imposed  
2 by Section 857 of the Internal Revenue Code, real  
3 estate investment trust taxable income;

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

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

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

1           (H) Partnerships. In the case of a partnership,  
2 taxable income determined in accordance with Section  
3 703 of the Internal Revenue Code, except that taxable  
4 income shall take into account those items which are  
5 required by Section 703(a)(1) to be separately stated  
6 but which would be taken into account by an individual  
7 in calculating his taxable income.

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

25           (f) Valuation limitation amount.

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

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

34           (B) The lesser of (i) the sum of the pre-August 1,  
35 1969 appreciation amounts (to the extent consisting of  
36 capital gain) for all property in respect of which such

1 gain was reported for federal income tax purposes for  
2 the taxable year, or (ii) the net capital gain for the  
3 taxable year, reduced in either case by any amount of  
4 such gain included in the amount determined under  
5 subsection (a) (2) (F) or (c) (2) (H).

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

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

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

29 (C) The Department shall prescribe such  
30 regulations as may be necessary to carry out the  
31 purposes of this paragraph.

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

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

10       (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,  
11 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;  
12 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.  
13 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)