



Filed: 10/24/2005

09400HB2706sam001

LRB094 03732 BDD 49710 a

1 AMENDMENT TO HOUSE BILL 2706

2 AMENDMENT NO. _____. Amend House Bill 2706 on page 20, by
3 replacing line 9 with the following:

4 "changing Sections 203 and 902 as follows:

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

6 Sec. 203. Base income defined.

7 (a) Individuals.

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

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

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

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

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

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

17 (D-5) An amount, to the extent not included in
18 adjusted gross income, equal to the amount of money
19 withdrawn by the taxpayer in the taxable year from a
20 medical care savings account and the interest earned on
21 the account in the taxable year of a withdrawal
22 pursuant to subsection (b) of Section 20 of the Medical
23 Care Savings Account Act or subsection (b) of Section
24 20 of the Medical Care Savings Account Act of 2000;

25 (D-10) For taxable years ending after December 31,
26 1997, an amount equal to any eligible remediation costs
27 that the individual deducted in computing adjusted
28 gross income and for which the individual claims a
29 credit under subsection (l) of Section 201;

30 (D-15) 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

1 Internal Revenue Code;

2 (D-16) If the taxpayer sells, transfers, abandons,
3 or otherwise disposes of ~~reports a capital gain or loss~~
4 ~~on the taxpayer's federal income tax return for the~~
5 ~~taxable year based on a sale or transfer of~~ property
6 for which the taxpayer was required in any taxable year
7 to make an addition modification under subparagraph
8 (D-15), then an amount equal to the aggregate amount of
9 the deductions taken in all taxable years under
10 subparagraph (Z) with respect to that property.

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

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

33 This paragraph shall not apply to the following:

34 (i) an item of interest paid, accrued, or

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

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

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

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

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

28 (iv) an item of interest paid, accrued, or
29 incurred, directly or indirectly, to a foreign
30 person if the taxpayer establishes by clear and
31 convincing evidence that the adjustments are
32 unreasonable; or if the taxpayer and the Director
33 agree in writing to the application or use of an
34 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 (D-18) 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 under Sections 951 through 964 of the Internal
27 Revenue Code and amounts included in gross income under
28 Section 78 of the Internal Revenue Code) with respect
29 to the stock of the same person to whom the intangible
30 expenses and costs were directly or indirectly paid,
31 incurred, or accrued. The preceding sentence does not
32 apply to the extent that the same dividends caused a
33 reduction to the addition modification required under
34 Section 203(a)(2)(D-17) of this Act. As used in this

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

15 This paragraph shall not apply to the following:

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

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

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

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

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

34 (E) For taxable years ending before December 31,

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

27 (F) An amount equal to all amounts included in such
28 total pursuant to the provisions of Sections 402(a),
29 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
30 Internal Revenue Code, or included in such total as
31 distributions under the provisions of any retirement
32 or disability plan for employees of any governmental
33 agency or unit, or retirement payments to retired
34 partners, which payments are excluded in computing net

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

4 (G) The valuation limitation amount;

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

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

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

19 (K) 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 (J) of paragraph (2) of this subsection
26 shall not be eligible for the deduction provided under
27 this subparagraph (K);

28 (L) For taxable years ending after December 31,
29 1983, an amount equal to all social security benefits
30 and railroad retirement benefits included in such
31 total pursuant to Sections 72(r) and 86 of the Internal
32 Revenue Code;

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

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

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

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

24 (P) An amount equal to the amount of the deduction
25 used to compute the federal income tax credit for
26 restoration of substantial amounts held under claim of
27 right for the taxable year pursuant to Section 1341 of
28 the Internal Revenue Code of 1986;

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

34 (R) An amount equal to the amount of any federal or

1 State bonus paid to veterans of the Persian Gulf War;

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

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

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

23 (V) Beginning with tax years ending on or after
24 December 31, 1995 and ending with tax years ending on
25 or before December 31, 2004, an amount equal to the
26 amount paid by a taxpayer who is a self-employed
27 taxpayer, a partner of a partnership, or a shareholder
28 in a Subchapter S corporation for health insurance or
29 long-term care insurance for that taxpayer or that
30 taxpayer's spouse or dependents, to the extent that the
31 amount paid for that health insurance or long-term care
32 insurance may be deducted under Section 213 of the
33 Internal Revenue Code of 1986, has not been deducted on
34 the federal income tax return of the taxpayer, and does

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

16 (W) For taxable years beginning on or after January
17 1, 1998, all amounts included in the taxpayer's federal
18 gross income in the taxable year from amounts converted
19 from a regular IRA to a Roth IRA. This paragraph is
20 exempt from the provisions of Section 250;

21 (X) For taxable year 1999 and thereafter, an amount
22 equal to the amount of any (i) distributions, to the
23 extent includible in gross income for federal income
24 tax purposes, made to the taxpayer because of his or
25 her status as a victim of persecution for racial or
26 religious reasons by Nazi Germany or any other Axis
27 regime or as an heir of the victim and (ii) items of
28 income, to the extent includible in gross income for
29 federal income tax purposes, attributable to, derived
30 from or in any way related to assets stolen from,
31 hidden from, or otherwise lost to a victim of
32 persecution for racial or religious reasons by Nazi
33 Germany or any other Axis regime immediately prior to,
34 during, and immediately after World War II, including,

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

20 (Y) For taxable years beginning on or after January
21 1, 2002 and ending on or before December 31, 2004,
22 moneys contributed in the taxable year to a College
23 Savings Pool account under Section 16.5 of the State
24 Treasurer Act, except that amounts excluded from gross
25 income under Section 529(c)(3)(C)(i) of the Internal
26 Revenue Code shall not be considered moneys
27 contributed under this subparagraph (Y). For taxable
28 years beginning on or after January 1, 2005, a maximum
29 of \$10,000 contributed in the taxable year to (i) a
30 College Savings Pool account under Section 16.5 of the
31 State Treasurer Act or (ii) the Illinois Prepaid
32 Tuition Trust Fund, except that amounts excluded from
33 gross income under Section 529(c)(3)(C)(i) of the
34 Internal Revenue Code shall not be considered moneys

1 contributed under this subparagraph (Y). This
2 subparagraph (Y) is exempt from the provisions of
3 Section 250;

4 (Z) For taxable years 2001 and thereafter, for the
5 taxable year in which the bonus depreciation deduction
6 ~~(30% of the adjusted basis of the qualified property)~~
7 is taken on the taxpayer's federal income tax return
8 under subsection (k) of Section 168 of the Internal
9 Revenue Code and for each applicable taxable year
10 thereafter, an amount equal to "x", where:

11 (1) "y" equals the amount of the depreciation
12 deduction taken for the taxable year on the
13 taxpayer's federal income tax return on property
14 for which the bonus depreciation deduction ~~(30% of~~
15 ~~the adjusted basis of the qualified property)~~ was
16 taken in any year under subsection (k) of Section
17 168 of the Internal Revenue Code, but not including
18 the bonus depreciation deduction; ~~and~~

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

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

25 (i) for property on which a bonus
26 depreciation deduction of 30% of the adjusted
27 basis was taken, "x" equals "y" multiplied by
28 30 and then divided by 70 (or "y" multiplied by
29 0.429); and

30 (ii) for property on which a bonus
31 depreciation deduction of 50% of the adjusted
32 basis was taken, "x" equals "y" multiplied by
33 1.0.

34 The aggregate amount deducted under this

1 subparagraph in all taxable years for any one piece of
2 property may not exceed the amount of the bonus
3 depreciation deduction ~~(30% of the adjusted basis of~~
4 ~~the qualified property)~~ taken on that property on the
5 taxpayer's federal income tax return under subsection
6 (k) of Section 168 of the Internal Revenue Code. This
7 subparagraph (Z) is exempt from the provisions of
8 Section 250;

9 (AA) If the taxpayer sells, transfers, abandons,
10 or otherwise disposes of ~~reports a capital gain or loss~~
11 ~~on the taxpayer's federal income tax return for the~~
12 ~~taxable year based on a sale or transfer of~~ property
13 for which the taxpayer was required in any taxable year
14 to make an addition modification under subparagraph
15 (D-15), then an amount equal to that addition
16 modification.

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

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

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

25 (CC) The amount of (i) any interest income (net of
26 the deductions allocable thereto) taken into account
27 for the taxable year with respect to a transaction with
28 a taxpayer that is required to make an addition
29 modification with respect to such transaction under
30 Section 203(a)(2)(D-17), 203(b)(2) (E-12) ~~(E-13)~~,
31 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
32 the amount of that addition modification, and (ii) any
33 income from intangible property (net of the deductions
34 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) ~~(E-14)~~,
5 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed
6 the amount of that addition modification;

7 (DD) 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(a)(2)(D-17) for
17 interest paid, accrued, or incurred, directly or
18 indirectly, to the same foreign person; and

19 (EE) 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(a)(2)(D-18) for
29 intangible expenses and costs paid, accrued, or
30 incurred, directly or indirectly, to the same foreign
31 person.

32 (b) Corporations.

33 (1) In general. In the case of a corporation, base

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

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

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

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

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

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

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

1 subtraction modifications in such earlier taxable
2 year, with the following limitations applied in the
3 order that they are listed:

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

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

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

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

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

1 (E-11) If the taxpayer sells, transfers, abandons,
2 or otherwise disposes of ~~reports a capital gain or loss~~
3 ~~on the taxpayer's federal income tax return for the~~
4 ~~taxable year based on a sale or transfer of~~ property
5 for which the taxpayer was required in any taxable year
6 to make an addition modification under subparagraph
7 (E-10), then an amount equal to the aggregate amount of
8 the deductions taken in all taxable years under
9 subparagraph (T) with respect to that property.

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

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

33 This paragraph shall not apply to the following:

- 34 (i) an item of interest paid, accrued, or

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

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

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

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

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

28 (iv) an item of interest paid, accrued, or
29 incurred, directly or indirectly, to a foreign
30 person if the taxpayer establishes by clear and
31 convincing evidence that the adjustments are
32 unreasonable; or if the taxpayer and the Director
33 agree in writing to the application or use of an
34 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 (E-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(b)(2)(E-12) of

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

15 This paragraph shall not apply to the following:

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

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

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

32 (b) the transaction giving rise to the
33 intangible expense or cost between the
34 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 sum of the
24 following amounts:

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

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

30 (H) In the case of a regulated investment company,
31 an amount equal to the amount of exempt interest
32 dividends as defined in subsection (b) (5) of Section
33 852 of the Internal Revenue Code, paid to shareholders
34 for the taxable year;

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

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

24 (K) 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 (L) An amount equal to those dividends included in
31 such total that were paid by a corporation that
32 conducts business operations in a federally designated
33 Foreign Trade Zone or Sub-Zone and that is designated a
34 High Impact Business located in Illinois; provided

1 that dividends eligible for the deduction provided in
2 subparagraph (K) of paragraph 2 of this subsection
3 shall not be eligible for the deduction provided under
4 this subparagraph (L);

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

25 (M-1) For any taxpayer that is a financial
26 organization within the meaning of Section 304(c) of
27 this Act, an amount included in such total as interest
28 income from a loan or loans made by such taxpayer to a
29 borrower, to the extent that such a loan is secured by
30 property which is eligible for the High Impact Business
31 Investment Credit. To determine the portion of a loan
32 or loans that is secured by property eligible for a
33 Section 201(h) investment credit to the borrower, the
34 entire principal amount of the loan or loans between

1 the taxpayer and the borrower should be divided into
2 the basis of the Section 201(h) investment credit
3 property which secures the loan or loans, using for
4 this purpose the original basis of such property on the
5 date that it was placed in service in a federally
6 designated Foreign Trade Zone or Sub-Zone located in
7 Illinois. No taxpayer that is eligible for the
8 deduction provided in subparagraph (M) of paragraph
9 (2) of this subsection shall be eligible for the
10 deduction provided under this subparagraph (M-1). The
11 subtraction modification available to taxpayers in any
12 year under this subsection shall be that portion of the
13 total interest paid by the borrower with respect to
14 such loan attributable to the eligible property as
15 calculated under the previous sentence;

16 (N) Two times any contribution made during the
17 taxable year to a designated zone organization to the
18 extent that the contribution (i) qualifies as a
19 charitable contribution under subsection (c) of
20 Section 170 of the Internal Revenue Code and (ii) must,
21 by its terms, be used for a project approved by the
22 Department of Commerce and Economic Opportunity under
23 Section 11 of the Illinois Enterprise Zone Act;

24 (O) An amount equal to: (i) 85% for taxable years
25 ending on or before December 31, 1992, or, a percentage
26 equal to the percentage allowable under Section
27 243(a)(1) of the Internal Revenue Code of 1986 for
28 taxable years ending after December 31, 1992, of the
29 amount by which dividends included in taxable income
30 and received from a corporation that is not created or
31 organized under the laws of the United States or any
32 state or political subdivision thereof, including, for
33 taxable years ending on or after December 31, 1988,
34 dividends received or deemed received or paid or deemed

1 paid under Sections 951 through 964 of the Internal
2 Revenue Code, exceed the amount of the modification
3 provided under subparagraph (G) of paragraph (2) of
4 this subsection (b) which is related to such dividends;
5 plus (ii) 100% of the amount by which dividends,
6 included in taxable income and received, including,
7 for taxable years ending on or after December 31, 1988,
8 dividends received or deemed received or paid or deemed
9 paid under Sections 951 through 964 of the Internal
10 Revenue Code, from any such corporation specified in
11 clause (i) that would but for the provisions of Section
12 1504 (b) (3) of the Internal Revenue Code be treated as
13 a member of the affiliated group which includes the
14 dividend recipient, exceed the amount of the
15 modification provided under subparagraph (G) of
16 paragraph (2) of this subsection (b) which is related
17 to such dividends;

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

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

26 (R) In the case of an attorney-in-fact with respect
27 to whom an interinsurer or a reciprocal insurer has
28 made the election under Section 835 of the Internal
29 Revenue Code, 26 U.S.C. 835, an amount equal to the
30 excess, if any, of the amounts paid or incurred by that
31 interinsurer or reciprocal insurer in the taxable year
32 to the attorney-in-fact over the deduction allowed to
33 that interinsurer or reciprocal insurer with respect
34 to the attorney-in-fact under Section 835(b) of the

1 Internal Revenue Code for the taxable year;

2 (S) For taxable years ending on or after December
3 31, 1997, in the case of a Subchapter S corporation, an
4 amount equal to all amounts of income allocable to a
5 shareholder subject to the Personal Property Tax
6 Replacement Income Tax imposed by subsections (c) and
7 (d) of Section 201 of this Act, including amounts
8 allocable to organizations exempt from federal income
9 tax by reason of Section 501(a) of the Internal Revenue
10 Code. This subparagraph (S) is exempt from the
11 provisions of Section 250;

12 (T) For taxable years 2001 and thereafter, for the
13 taxable year in which the bonus depreciation deduction
14 ~~(30% of the adjusted basis of the qualified property)~~
15 is taken on the taxpayer's federal income tax return
16 under subsection (k) of Section 168 of the Internal
17 Revenue Code and for each applicable taxable year
18 thereafter, an amount equal to "x", where:

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

27 (2) for taxable years ending on or before on or
28 before December 31, 2005, "x" equals "y"
29 multiplied by 30 and then divided by 70 (or "y"
30 multiplied by 0.429); and

31 (3) for taxable years ending after December
32 31, 2005:

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

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

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

8 The aggregate amount deducted under this
9 subparagraph in all taxable years for any one piece of
10 property may not exceed the amount of the bonus
11 depreciation deduction ~~(30% of the adjusted basis of~~
12 ~~the qualified property)~~ taken on that property on the
13 taxpayer's federal income tax return under subsection
14 (k) of Section 168 of the Internal Revenue Code. This
15 subparagraph (T) is exempt from the provisions of
16 Section 250;

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

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

28 This subparagraph (U) is exempt from the
29 provisions of Section 250;

30 (V) The amount of: (i) any interest income (net of
31 the deductions allocable thereto) taken into account
32 for the taxable year with respect to a transaction with
33 a taxpayer that is required to make an addition
34 modification with respect to such transaction under

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

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

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

1 incurred, directly or indirectly, to the same foreign
2 person.

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

7 (c) Trusts and estates.

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

11 (2) Modifications. Subject to the provisions of
12 paragraph (3), the taxable income referred to in paragraph
13 (1) shall be modified by adding thereto the sum of the
14 following amounts:

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

19 (B) In the case of (i) an estate, \$600; (ii) a
20 trust which, under its governing instrument, is
21 required to distribute all of its income currently,
22 \$300; and (iii) any other trust, \$100, but in each such
23 case, only to the extent such amount was deducted in
24 the computation of taxable income;

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

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

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

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

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

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

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

29 (F) For taxable years ending on or after January 1,
30 1989, an amount equal to the tax deducted pursuant to
31 Section 164 of the Internal Revenue Code if the trust
32 or estate is claiming the same tax for purposes of the
33 Illinois foreign tax credit under Section 601 of this
34 Act;

1 (G) An amount equal to the amount of the capital
2 gain deduction allowable under the Internal Revenue
3 Code, to the extent deducted from gross income in the
4 computation of taxable income;

5 (G-5) For taxable years ending after December 31,
6 1997, an amount equal to any eligible remediation costs
7 that the trust or estate deducted in computing adjusted
8 gross income and for which the trust or estate claims a
9 credit under subsection (l) of Section 201;

10 (G-10) For taxable years 2001 and thereafter, an
11 amount equal to the bonus depreciation deduction ~~(30%~~
12 ~~of the adjusted basis of the qualified property)~~ taken
13 on the taxpayer's federal income tax return for the
14 taxable year under subsection (k) of Section 168 of the
15 Internal Revenue Code; and

16 (G-11) If the taxpayer sells, transfers, abandons,
17 or otherwise disposes of ~~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 (G-10), then an amount equal to the aggregate amount of
23 the deductions taken in all taxable years under
24 subparagraph (R) with respect to that property.

25 The taxpayer is required to make the addition
26 modification under this subparagraph only once with
27 respect to any one piece of property;

28 (G-12) For taxable years ending on or after
29 December 31, 2004, an amount equal to the amount
30 otherwise allowed as a deduction in computing base
31 income for interest paid, accrued, or incurred,
32 directly or indirectly, to a foreign person who would
33 be a member of the same unitary business group but for
34 the fact that the foreign person's business activity

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

14 This paragraph shall not apply to the following:

15 (i) an item of interest paid, accrued, or
16 incurred, directly or indirectly, to 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 interest; or

21 (ii) an item of interest paid, accrued, or
22 incurred, directly or indirectly, to a foreign
23 person if the taxpayer can establish, based on a
24 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 interest to a person that is not a related
29 member, and

30 (b) the transaction giving rise to the
31 interest expense between the taxpayer and the
32 foreign person did not have as a principal
33 purpose the avoidance of Illinois income tax,
34 and is paid pursuant to a contract or agreement

1 that reflects an arm's-length interest rate
2 and terms; or

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

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

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

26 (G-13) For taxable years ending on or after
27 December 31, 2004, an amount equal to the amount of
28 intangible expenses and costs otherwise allowed as a
29 deduction in computing base income, and that were paid,
30 accrued, or incurred, directly or indirectly, to a
31 foreign person who would be a member of the same
32 unitary business group but for the fact that the
33 foreign person's business activity outside the United
34 States is 80% or more of that person's total business

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

30 This paragraph shall not apply to the following:

31 (i) any item of intangible expenses or costs
32 paid, accrued, or incurred, directly or
33 indirectly, from a transaction with a foreign
34 person who is subject in a foreign country or

1 state, other than a state which requires mandatory
2 unitary reporting, to a tax on or measured by net
3 income with respect to such item; or

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

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

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

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

29 Nothing in this subsection shall preclude the
30 Director from making any other adjustment
31 otherwise allowed under Section 404 of this Act for
32 any tax year beginning after the effective date of
33 this amendment provided such adjustment is made
34 pursuant to regulation adopted by the Department

1 and such regulations provide methods and standards
2 by which the Department will utilize its authority
3 under Section 404 of this Act;
4 and by deducting from the total so obtained the sum of the
5 following amounts:

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

17 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

34 (Q) For taxable year 1999 and thereafter, an amount

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

33 (R) For taxable years 2001 and thereafter, for the
34 taxable year in which the bonus depreciation deduction

1 ~~(30% of the adjusted basis of the qualified property)~~
2 is taken on the taxpayer's federal income tax return
3 under subsection (k) of Section 168 of the Internal
4 Revenue Code and for each applicable taxable year
5 thereafter, an amount equal to "x", where:

6 (1) "y" equals the amount of the depreciation
7 deduction taken for the taxable year on the
8 taxpayer's federal income tax return on property
9 for which the bonus depreciation deduction ~~(30% of~~
10 ~~the adjusted basis of the qualified property)~~ was
11 taken in any year under subsection (k) of Section
12 168 of the Internal Revenue Code, but not including
13 the bonus depreciation deduction; ~~and~~

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

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

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

25 (ii) for property on which a bonus
26 depreciation deduction of 50% of the adjusted
27 basis was taken, "x" equals "y" multiplied by
28 1.0.

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

1 (k) of Section 168 of the Internal Revenue Code. This
2 subparagraph (R) is exempt from the provisions of
3 Section 250;

4 (S) If the taxpayer sells, transfers, abandons, or
5 otherwise disposes of ~~reports a capital gain or loss on~~
6 ~~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 (G-10), then an amount equal to that addition
11 modification.

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

15 This subparagraph (S) is exempt from the
16 provisions of Section 250;

17 (T) The amount of (i) any interest income (net of
18 the deductions allocable thereto) taken into account
19 for the taxable year with respect to a transaction with
20 a taxpayer that is required to make an addition
21 modification with respect to such transaction under
22 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
23 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
24 the amount of such addition modification and (ii) any
25 income from intangible property (net of the deductions
26 allocable thereto) taken into account for the taxable
27 year with respect to a transaction with a taxpayer that
28 is required to make an addition modification with
29 respect to such transaction under Section
30 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
31 203(d)(2)(D-8), but not to exceed the amount of such
32 addition modification;

33 (U) An amount equal to the interest income taken
34 into account for the taxable year (net of the

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

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

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

31 (d) Partnerships.

32 (1) In general. In the case of a partnership, base
33 income means an amount equal to the taxpayer's taxable

1 income for the taxable year as modified by paragraph (2).

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

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

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

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

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

19 (D-5) For taxable years 2001 and thereafter, an
20 amount equal to the bonus depreciation deduction ~~(30%~~
21 ~~of the adjusted basis of the qualified property)~~ taken
22 on the taxpayer's federal income tax return for the
23 taxable year under subsection (k) of Section 168 of the
24 Internal Revenue Code;

25 (D-6) If the taxpayer sells, transfers, abandons,
26 or otherwise disposes of ~~reports a capital gain or loss~~
27 ~~on the taxpayer's federal income tax return for the~~
28 ~~taxable year based on a sale or transfer of property~~
29 for which the taxpayer was required in any taxable year
30 to make an addition modification under subparagraph
31 (D-5), then an amount equal to the aggregate amount of
32 the deductions taken in all taxable years under
33 subparagraph (O) with respect to that property.

34 The taxpayer is required to make the addition

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

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

22 This paragraph shall not apply to the following:

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

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

34 (a) the foreign person, during the same

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

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

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

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

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

34 (D-8) For taxable years ending on or after December

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

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

4 This paragraph shall not apply to the following:

5 (i) any item of intangible expenses or costs
6 paid, accrued, or incurred, directly or
7 indirectly, from a transaction with 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 item; or

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

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

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

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

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

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

14 (E) The valuation limitation amount;

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

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

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

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

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

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

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

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

30 (M) An amount equal to those dividends included in
31 such total that were paid by a corporation that
32 conducts business operations in a federally designated
33 Foreign Trade Zone or Sub-Zone and that is designated a
34 High Impact Business located in Illinois; provided

1 that dividends eligible for the deduction provided in
2 subparagraph (K) of paragraph (2) of this subsection
3 shall not be eligible for the deduction provided under
4 this subparagraph (M);

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

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

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

25 (2) for taxable years ending on or before
26 December 31, 2005, "x" equals "y" multiplied by 30
27 and then divided by 70 (or "y" multiplied by
28 0.429); and

29 (3) for taxable years ending after December
30 31, 2005:

31 (i) for property on which a bonus
32 depreciation deduction of 30% of the adjusted
33 basis was taken, "x" equals "y" multiplied by
34 30 and then divided by 70 (or "y" multiplied by

1 0.429); and

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

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. This
13 subparagraph (O) is exempt from the provisions of
14 Section 250;

15 (P) If the taxpayer sells, transfers, abandons, or
16 otherwise disposes of ~~reports a capital gain or loss on~~
17 ~~the taxpayer's federal income tax return for the~~
18 ~~taxable year based on a sale or transfer of~~ property
19 for which the taxpayer was required in any taxable year
20 to make an addition modification under subparagraph
21 (D-5), then an amount equal to that addition
22 modification.

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

26 This subparagraph (P) is exempt from the
27 provisions of Section 250;

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

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

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

22 (S) An amount equal to the income from intangible
23 property taken into account for the taxable year (net
24 of the deductions allocable thereto) with respect to
25 transactions with a foreign person who would be a
26 member of the taxpayer's unitary business group but for
27 the fact that the foreign person's business activity
28 outside the United States is 80% or more of that
29 person's total business activity, but not to exceed the
30 addition modification required to be made for the same
31 taxable year under Section 203(d)(2)(D-8) for
32 intangible expenses and costs paid, accrued, or
33 incurred, directly or indirectly, to the same foreign
34 person.

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

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

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

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

11 (B) Certain other insurance companies. In the case
12 of mutual insurance companies subject to the tax
13 imposed by Section 831 of the Internal Revenue Code,
14 insurance company taxable income;

15 (C) Regulated investment companies. In the case of
16 a regulated investment company subject to the tax
17 imposed by Section 852 of the Internal Revenue Code,
18 investment company taxable income;

19 (D) Real estate investment trusts. In the case of a
20 real estate investment trust subject to the tax imposed
21 by Section 857 of the Internal Revenue Code, real
22 estate investment trust taxable income;

23 (E) Consolidated corporations. In the case of a
24 corporation which is a member of an affiliated group of
25 corporations filing a consolidated income tax return
26 for the taxable year for federal income tax purposes,
27 taxable income determined as if such corporation had
28 filed a separate return for federal income tax purposes
29 for the taxable year and each preceding taxable year
30 for which it was a member of an affiliated group. For
31 purposes of this subparagraph, the taxpayer's separate
32 taxable income shall be determined as if the election
33 provided by Section 243(b) (2) of the Internal Revenue
34 Code had been in effect for all such years;

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

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

22 (H) Partnerships. In the case of a partnership,
23 taxable income determined in accordance with Section
24 703 of the Internal Revenue Code, except that taxable
25 income shall take into account those items which are
26 required by Section 703(a)(1) to be separately stated
27 but which would be taken into account by an individual
28 in calculating his taxable income.

29 (3) Recapture of business expenses on disposition of
30 asset or business. Notwithstanding any other law to the
31 contrary, if in prior years income from an asset or
32 business has been classified as business income and in a
33 later year is demonstrated to be non-business income, then
34 all expenses, without limitation, deducted in such later

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

12 (f) Valuation limitation amount.

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

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

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

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

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

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

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

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

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

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

1 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
2 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
3 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
4 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)".