



Rep. Donald L. Moffitt

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1 AMENDMENT TO HOUSE BILL 3050

2 AMENDMENT NO. _____. Amend House Bill 3050 by replacing
3 everything after the enacting clause with the following:

4 "Section 3. The State Finance Act is amended by changing
5 Section 8h and by adding Sections 5.640 and 6z-68 as follows:

6 (30 ILCS 105/5.640 new)

7 Sec. 5.640. The Intercity Passenger Rail Fund.

8 (30 ILCS 105/6z-68 new)

9 Sec. 6z-68. The Intercity Passenger Rail Fund.

10 (a) The Intercity Passenger Rail Fund is created as a
11 special fund in the State treasury. Moneys in the Fund may be
12 used by the Department of Transportation, subject to
13 appropriation, for the operation of intercity passenger rail
14 services in the State.

15 Moneys received for the purposes of this Section,
16 including, without limitation, income tax checkoff receipts
17 and gifts, grants, and awards from any public or private
18 entity, must be deposited into the Fund. Any interest earned on
19 moneys in the Fund must be deposited into the Fund.

20 (b) At least one month before the beginning of each fiscal
21 year, the Director of Revenue must certify to the State
22 Treasurer the revenue estimated to be received by the State
23 during the next fiscal year due to the addition modifications

1 required by this amendatory Act of the 94th General Assembly.

2 On the first day of that next fiscal year, or as soon
3 thereafter as practical, the State Treasurer must transfer an
4 amount equal to the amount certified by the Director of Revenue
5 from the General Revenue Fund to the Intercity Passenger Rail
6 Fund.

7 At the end of each fiscal year, the Director of Revenue
8 must certify to the State Treasurer the amount of the actual
9 revenues received during the fiscal year due to the addition
10 modifications required by this amendatory Act of the 94th
11 General Assembly. If the actual new revenue exceeds the
12 estimated new revenue, then the State Treasurer shall transfer
13 the difference from the General Revenue Fund to the Intercity
14 Passenger Rail Fund. If the actual new revenue is less than the
15 estimated new revenue, then the State Treasurer shall transfer
16 the difference from the Intercity Passenger Rail Fund to the
17 General Revenue Fund.

18 (30 ILCS 105/8h)

19 Sec. 8h. Transfers to General Revenue Fund.

20 (a) Except as provided in subsection (b), notwithstanding
21 any other State law to the contrary, the Governor may, through
22 June 30, 2007, from time to time direct the State Treasurer and
23 Comptroller to transfer a specified sum from any fund held by
24 the State Treasurer to the General Revenue Fund in order to
25 help defray the State's operating costs for the fiscal year.
26 The total transfer under this Section from any fund in any
27 fiscal year shall not exceed the lesser of (i) 8% of the
28 revenues to be deposited into the fund during that fiscal year
29 or (ii) an amount that leaves a remaining fund balance of 25%
30 of the July 1 fund balance of that fiscal year. In fiscal year
31 2005 only, prior to calculating the July 1, 2004 final
32 balances, the Governor may calculate and direct the State
33 Treasurer with the Comptroller to transfer additional amounts

1 determined by applying the formula authorized in Public Act
2 93-839 to the funds balances on July 1, 2003. No transfer may
3 be made from a fund under this Section that would have the
4 effect of reducing the available balance in the fund to an
5 amount less than the amount remaining unexpended and unreserved
6 from the total appropriation from that fund estimated to be
7 expended for that fiscal year. This Section does not apply to
8 any funds that are restricted by federal law to a specific use,
9 to any funds in the Motor Fuel Tax Fund, the Intercity
10 Passenger Rail Fund, the Hospital Provider Fund, the Medicaid
11 Provider Relief Fund, or the Reviewing Court Alternative
12 Dispute Resolution Fund, or to any funds to which subsection
13 (f) of Section 20-40 of the Nursing and Advanced Practice
14 Nursing Act applies. Notwithstanding any other provision of
15 this Section, for fiscal year 2004, the total transfer under
16 this Section from the Road Fund or the State Construction
17 Account Fund shall not exceed the lesser of (i) 5% of the
18 revenues to be deposited into the fund during that fiscal year
19 or (ii) 25% of the beginning balance in the fund. For fiscal
20 year 2005 through fiscal year 2007, no amounts may be
21 transferred under this Section from the Road Fund, the State
22 Construction Account Fund, the Criminal Justice Information
23 Systems Trust Fund, the Wireless Service Emergency Fund, or the
24 Mandatory Arbitration Fund.

25 In determining the available balance in a fund, the
26 Governor may include receipts, transfers into the fund, and
27 other resources anticipated to be available in the fund in that
28 fiscal year.

29 The State Treasurer and Comptroller shall transfer the
30 amounts designated under this Section as soon as may be
31 practicable after receiving the direction to transfer from the
32 Governor.

33 (b) This Section does not apply to any fund established
34 under the Community Senior Services and Resources Act.

1 (Source: P.A. 93-32, eff. 6-20-03; 93-659, eff. 2-3-04; 93-674,
2 eff. 6-10-04; 93-714, eff. 7-12-04; 93-801, eff. 7-22-04;
3 93-839, eff. 7-30-04; 93-1054, eff. 11-18-04; 93-1067, eff.
4 1-15-05.)

5 Section 5. The Illinois Income Tax Act is amended by
6 changing Sections 203 and 1501 as follows:

7 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

8 Sec. 203. Base income defined.

9 (a) Individuals.

10 (1) In general. In the case of an individual, base
11 income means an amount equal to the taxpayer's adjusted
12 gross income for the taxable year as modified by paragraph
13 (2).

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

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

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

28 (C) An amount equal to the amount received during
29 the taxable year as a recovery or refund of real
30 property taxes paid with respect to the taxpayer's
31 principal residence under the Revenue Act of 1939 and
32 for which a deduction was previously taken under

1 subparagraph (L) of this paragraph (2) prior to July 1,
2 1991, the retrospective application date of Article 4
3 of Public Act 87-17. In the case of multi-unit or
4 multi-use structures and farm dwellings, the taxes on
5 the taxpayer's principal residence shall be that
6 portion of the total taxes for the entire property
7 which is attributable to such principal residence;

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

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

20 (D-10) For taxable years ending after December 31,
21 1997, an amount equal to any eligible remediation costs
22 that the individual deducted in computing adjusted
23 gross income and for which the individual claims a
24 credit under subsection (l) of Section 201;

25 (D-15) For taxable years 2001 and thereafter, an
26 amount equal to the bonus depreciation deduction (30%
27 of the adjusted basis of the qualified property) taken
28 on the taxpayer's federal income tax return for the
29 taxable year under subsection (k) of Section 168 of the
30 Internal Revenue Code. This subparagraph (D-15) does
31 not apply to any sport utility vehicle for which an
32 amount is added back under subparagraph (D-25);

33 (D-16) If the taxpayer reports a capital gain or
34 loss on the taxpayer's federal income tax return for

1 the taxable year based on a sale or transfer of
2 property for which the taxpayer was required in any
3 taxable year to make an addition modification under
4 subparagraph (D-15), then an amount equal to the
5 aggregate amount of the deductions taken in all taxable
6 years under subparagraph (Z) with respect to that
7 property.

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

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

30 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

33 Nothing in this subsection shall preclude the
34 Director from making any other adjustment

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

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

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

12 This paragraph shall not apply to the following:

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

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

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

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

1 or

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

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

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

29 (D-25) For taxable years ending on or after
30 December 31, 2005, an amount equal to the sum of: (i)
31 any deduction taken under Section 179 of the Internal
32 Revenue Code for a sport utility vehicle for the
33 taxable year; plus (ii) any deduction taken under
34 Section 167(a) of the Internal Revenue Code for

1 depreciation of a sport utility vehicle for the taxable
2 year;

3 (D-30) If the taxpayer reports a capital gain or
4 loss on the taxpayer's federal income tax return for
5 the taxable year based on a sale or transfer of a sport
6 utility vehicle for which the taxpayer was required in
7 any taxable year to make an addition modification under
8 subparagraph (D-25), then an amount equal to the
9 aggregate amount of the deductions taken in all taxable
10 years under subparagraph (FF) with respect to that
11 sport utility vehicle. The taxpayer is required to make
12 the addition modification under this subparagraph only
13 once with respect to any one sport utility vehicle;

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

16 (E) For taxable years ending before December 31,
17 2001, any amount included in such total in respect of
18 any compensation (including but not limited to any
19 compensation paid or accrued to a serviceman while a
20 prisoner of war or missing in action) paid to a
21 resident by reason of being on active duty in the Armed
22 Forces of the United States and in respect of any
23 compensation paid or accrued to a resident who as a
24 governmental employee was a prisoner of war or missing
25 in action, and in respect of any compensation paid to a
26 resident in 1971 or thereafter for annual training
27 performed pursuant to Sections 502 and 503, Title 32,
28 United States Code as a member of the Illinois National
29 Guard. For taxable years ending on or after December
30 31, 2001, any amount included in such total in respect
31 of any compensation (including but not limited to any
32 compensation paid or accrued to a serviceman while a
33 prisoner of war or missing in action) paid to a
34 resident by reason of being a member of any component

1 of the Armed Forces of the United States and in respect
2 of any compensation paid or accrued to a resident who
3 as a governmental employee was a prisoner of war or
4 missing in action, and in respect of any compensation
5 paid to a resident in 2001 or thereafter by reason of
6 being a member of the Illinois National Guard. The
7 provisions of this amendatory Act of the 92nd General
8 Assembly are exempt from the provisions of Section 250;

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

20 (G) The valuation limitation amount;

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

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

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

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

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

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

28 (N) An amount equal to all amounts included in such
29 total which are exempt from taxation by this State
30 either by reason of its statutes or Constitution or by
31 reason of the Constitution, treaties or statutes of the
32 United States; provided that, in the case of any
33 statute of this State that exempts income derived from
34 bonds or other obligations from the tax imposed under

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

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

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

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

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

18 (S) An amount, to the extent included in adjusted
19 gross income, equal to the amount of a contribution
20 made in the taxable year on behalf of the taxpayer to a
21 medical care savings account established under the
22 Medical Care Savings Account Act or the Medical Care
23 Savings Account Act of 2000 to the extent the
24 contribution is accepted by the account administrator
25 as provided in that Act;

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

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

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

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

32 (W) For taxable years beginning on or after January
33 1, 1998, all amounts included in the taxpayer's federal
34 gross income in the taxable year from amounts converted

1 from a regular IRA to a Roth IRA. This paragraph is
2 exempt from the provisions of Section 250;

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

1 of Section 250;

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

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

27 (1) "y" equals the amount of the depreciation
28 deduction taken for the taxable year on the
29 taxpayer's federal income tax return on property
30 for which the bonus depreciation deduction (30% of
31 the adjusted basis of the qualified property) was
32 taken in any year under subsection (k) of Section
33 168 of the Internal Revenue Code, but not including
34 the bonus depreciation deduction; and

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

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

10 (AA) If the taxpayer 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 (BB) Any amount included in adjusted gross income,
21 other than salary, received by a driver in a
22 ridesharing arrangement using a motor vehicle;

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

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

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

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

30 (FF) For a taxable year in which an amount is added
31 back under paragraph (D-25) with respect to a sport
32 utility vehicle and for each subsequent taxable year,
33 an amount equal to the deduction, if any, to which the
34 taxpayer would have been entitled under Section 179 or

1 Section 167(a) of the Internal Revenue Code with
2 respect to that sport utility vehicle if that sport
3 utility vehicle were a "passenger automobile" within
4 the meaning of Section 280F(d)(5) of the Internal
5 Revenue Code. This subparagraph (FF) is exempt from the
6 provisions of Section 250; and

7 (GG) If the taxpayer reports a capital gain or loss
8 on the taxpayer's federal income tax return for the
9 taxable year based on a sale or transfer of a sport
10 utility vehicle for which the taxpayer was required in
11 any taxable year to make an addition modification under
12 subparagraph (D-25), then an amount equal to that
13 addition modification. The taxpayer is allowed to take
14 the deduction under this subparagraph only once with
15 respect to any one sport utility vehicle. This
16 subparagraph (GG) is exempt from the provisions of
17 Section 250.

18 (b) Corporations.

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

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

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

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

33 (C) In the case of a regulated investment company,

1 an amount equal to the excess of (i) the net long-term
2 capital gain for the taxable year, over (ii) the amount
3 of the capital gain dividends designated as such in
4 accordance with Section 852(b)(3)(C) of the Internal
5 Revenue Code and any amount designated under Section
6 852(b)(3)(D) of the Internal Revenue Code,
7 attributable to the taxable year (this amendatory Act
8 of 1995 (Public Act 89-89) is declarative of existing
9 law and is not a new enactment);

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

14 (E) For taxable years in which a net operating loss
15 carryback or carryforward from a taxable year ending
16 prior to December 31, 1986 is an element of taxable
17 income under paragraph (1) of subsection (e) or
18 subparagraph (E) of paragraph (2) of subsection (e),
19 the amount by which addition modifications other than
20 those provided by this subparagraph (E) exceeded
21 subtraction modifications in such earlier taxable
22 year, with the following limitations applied in the
23 order that they are listed:

24 (i) the addition modification relating to the
25 net operating loss carried back or forward to the
26 taxable year from any taxable year ending prior to
27 December 31, 1986 shall be reduced by the amount of
28 addition modification under this subparagraph (E)
29 which related to that net operating loss and which
30 was taken into account in calculating the base
31 income of an earlier taxable year, and

32 (ii) the addition modification relating to the
33 net operating loss carried back or forward to the
34 taxable year from any taxable year ending prior to

1 December 31, 1986 shall not exceed the amount of
2 such carryback or carryforward;

3 For taxable years in which there is a net operating
4 loss carryback or carryforward from more than one other
5 taxable year ending prior to December 31, 1986, the
6 addition modification provided in this subparagraph
7 (E) shall be the sum of the amounts computed
8 independently under the preceding provisions of this
9 subparagraph (E) for each such taxable year;

10 (E-5) For taxable years ending after December 31,
11 1997, an amount equal to any eligible remediation costs
12 that the corporation deducted in computing adjusted
13 gross income and for which the corporation claims a
14 credit under subsection (l) of Section 201;

15 (E-10) For taxable years 2001 and thereafter, an
16 amount equal to the bonus depreciation deduction (30%
17 of the adjusted basis of the qualified property) taken
18 on the taxpayer's federal income tax return for the
19 taxable year under subsection (k) of Section 168 of the
20 Internal Revenue Code. This subparagraph (E-10) does
21 not apply to any sport utility vehicle for which an
22 amount is added back under subparagraph (E-15); and

23 (E-11) If the taxpayer reports a capital gain or
24 loss on the taxpayer's federal income tax return for
25 the taxable year based on a sale or transfer of
26 property for which the taxpayer was required in any
27 taxable year to make an addition modification under
28 subparagraph (E-10), then an amount equal to the
29 aggregate amount of the deductions taken in all taxable
30 years under subparagraph (T) with respect to that
31 property.

32 The taxpayer is required to make the addition
33 modification under this subparagraph only once with
34 respect to any one piece of property;

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

21 This paragraph shall not apply to the following:

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

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

33 (a) the foreign person, during the same
34 taxable year, paid, accrued, or incurred, the

1 interest to a person that is not a related
2 member, and

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

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

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

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

33 (E-13) For taxable years ending on or after
34 December 31, 2004, an amount equal to the amount of

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

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

3 This paragraph shall not apply to the following:

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

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

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

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

27 (iii) any item of intangible expense or cost
28 paid, accrued, or incurred, directly or
29 indirectly, from a transaction with 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-15) For taxable years ending on or after
12 December 31, 2005, an amount equal to the sum of: (i)
13 any deduction taken under Section 179 of the Internal
14 Revenue Code for a sport utility vehicle for the
15 taxable year; plus (ii) any deduction taken under
16 Section 167(a) of the Internal Revenue Code for
17 depreciation of a sport utility vehicle for the taxable
18 year;

19 (E-20) If the taxpayer reports a capital gain or
20 loss on the taxpayer's federal income tax return for
21 the taxable year based on a sale or transfer of a sport
22 utility vehicle for which the taxpayer was required in
23 any taxable year to make an addition modification under
24 subparagraph (E-15), then an amount equal to the
25 aggregate amount of the deductions taken in all taxable
26 years under subparagraph (Y) with respect to that sport
27 utility vehicle. The taxpayer is required to make the
28 addition modification under this subparagraph only
29 once with respect to any one sport utility vehicle;

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

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

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

3 (H) In the case of a regulated investment company,
4 an amount equal to the amount of exempt interest
5 dividends as defined in subsection (b) (5) of Section
6 852 of the Internal Revenue Code, paid to shareholders
7 for the taxable year;

8 (I) With the exception of any amounts subtracted
9 under subparagraph (J), an amount equal to the sum of
10 all amounts disallowed as deductions by (i) Sections
11 171(a) (2), and 265(a)(2) and amounts disallowed as
12 interest expense by Section 291(a)(3) of the Internal
13 Revenue Code, as now or hereafter amended, and all
14 amounts of expenses allocable to interest and
15 disallowed as deductions by Section 265(a)(1) of the
16 Internal Revenue Code, as now or hereafter amended; and
17 (ii) for taxable years ending on or after August 13,
18 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
19 832(b)(5)(B)(i) of the Internal Revenue Code; the
20 provisions of this subparagraph are exempt from the
21 provisions of Section 250;

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

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

1 and conducts substantially all of its operations in an
2 Enterprise Zone or zones;

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

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

32 (M-1) For any taxpayer that is a financial
33 organization within the meaning of Section 304(c) of
34 this Act, an amount included in such total as interest

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

23 (N) Two times any contribution made during the
24 taxable year to a designated zone organization to the
25 extent that the contribution (i) qualifies as a
26 charitable contribution under subsection (c) of
27 Section 170 of the Internal Revenue Code and (ii) must,
28 by its terms, be used for a project approved by the
29 Department of Commerce and Economic Opportunity under
30 Section 11 of the Illinois Enterprise Zone Act;

31 (O) An amount equal to: (i) 85% for taxable years
32 ending on or before December 31, 1992, or, a percentage
33 equal to the percentage allowable under Section
34 243(a)(1) of the Internal Revenue Code of 1986 for

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

25 (P) An amount equal to any contribution made to a
26 job training project established pursuant to the Tax
27 Increment Allocation Redevelopment Act;

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

33 (R) In the case of an attorney-in-fact with respect
34 to whom an interinsurer or a reciprocal insurer has

1 made the election under Section 835 of the Internal
2 Revenue Code, 26 U.S.C. 835, an amount equal to the
3 excess, if any, of the amounts paid or incurred by that
4 interinsurer or reciprocal insurer in the taxable year
5 to the attorney-in-fact over the deduction allowed to
6 that interinsurer or reciprocal insurer with respect
7 to the attorney-in-fact under Section 835(b) of the
8 Internal Revenue Code for the taxable year;

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

19 (T) For taxable years 2001 and thereafter, for the
20 taxable year in which the bonus depreciation deduction
21 (30% of the adjusted basis of the qualified property)
22 is taken on the taxpayer's federal income tax return
23 under subsection (k) of Section 168 of the Internal
24 Revenue Code and for each applicable taxable year
25 thereafter, an amount equal to "x", where:

26 (1) "y" equals the amount of the depreciation
27 deduction taken for the taxable year on the
28 taxpayer's federal income tax return on property
29 for which the bonus depreciation deduction (30% of
30 the adjusted basis of the qualified property) was
31 taken in any year under subsection (k) of Section
32 168 of the Internal Revenue Code, but not including
33 the bonus depreciation deduction; and

34 (2) "x" equals "y" multiplied by 30 and then

1 divided by 70 (or "y" multiplied by 0.429).

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

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

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

19 (V) The amount of: (i) any interest income (net of
20 the deductions allocable thereto) taken into account
21 for the taxable year with respect to a transaction with
22 a taxpayer that is required to make an addition
23 modification with respect to such transaction under
24 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
25 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
26 the amount of such addition modification and (ii) any
27 income from intangible property (net of the deductions
28 allocable thereto) taken into account for the taxable
29 year with respect to a transaction with a taxpayer that
30 is required to make an addition modification with
31 respect to such transaction under Section
32 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
33 203(d)(2)(D-8), but not to exceed the amount of such
34 addition modification;

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

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

26 (Y) For a taxable year in which an amount is added
27 back under paragraph (E-15) with respect to a sport
28 utility vehicle and for each subsequent taxable year,
29 an amount equal to the deduction, if any, to which the
30 taxpayer would have been entitled under Section 179 or
31 Section 167(a) of the Internal Revenue Code with
32 respect to that sport utility vehicle if that sport
33 utility vehicle were a "passenger automobile" within
34 the meaning of Section 280F(d)(5) of the Internal

1 Revenue Code. This subparagraph (Y) is exempt from the
2 provisions of Section 250; and

3 (Z) If the taxpayer 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 a sport
6 utility vehicle for which the taxpayer was required in
7 any taxable year to make an addition modification under
8 subparagraph (E-15), then an amount equal to that
9 addition modification. The taxpayer is allowed to take
10 the deduction under this subparagraph only once with
11 respect to any one sport utility vehicle. This
12 subparagraph (Z) is exempt from the provisions of
13 Section 250.

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

18 (c) Trusts and estates.

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

22 (2) Modifications. Subject to the provisions of
23 paragraph (3), the taxable income referred to in paragraph
24 (1) shall be modified by adding thereto the sum of the
25 following amounts:

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

30 (B) In the case of (i) an estate, \$600; (ii) a
31 trust which, under its governing instrument, is
32 required to distribute all of its income currently,
33 \$300; and (iii) any other trust, \$100, but in each such

1 case, only to the extent such amount was deducted in
2 the computation of taxable income;

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

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

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

20 (i) the addition modification relating to the
21 net operating loss carried back or forward to the
22 taxable year from any taxable year ending prior to
23 December 31, 1986 shall be reduced by the amount of
24 addition modification under this subparagraph (E)
25 which related to that net operating loss and which
26 was taken into account in calculating the base
27 income of an earlier taxable year, and

28 (ii) the addition modification relating to the
29 net operating loss carried back or forward to the
30 taxable year from any taxable year ending prior to
31 December 31, 1986 shall not exceed the amount of
32 such carryback or carryforward;

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

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

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

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

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

21 (G-10) For taxable years 2001 and thereafter, an
22 amount equal to the bonus depreciation deduction (30%
23 of the adjusted basis of the qualified property) taken
24 on the taxpayer's federal income tax return for the
25 taxable year under subsection (k) of Section 168 of the
26 Internal Revenue Code. This subparagraph (G-10) does
27 not apply to any sport utility vehicle for which an
28 amount is added back under subparagraph (G-15); and

29 (G-11) If the taxpayer reports a capital gain or
30 loss on the taxpayer's federal income tax return for
31 the taxable year based on a sale or transfer of
32 property for which the taxpayer was required in any
33 taxable year to make an addition modification under
34 subparagraph (G-10), then an amount equal to the

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

4 The taxpayer is required to make the addition
5 modification under this subparagraph only once with
6 respect to any one piece of property;

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

27 This paragraph shall not apply to the following:

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

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

1 incurred, directly or indirectly, to a foreign
2 person if the taxpayer can establish, based on a
3 preponderance of the evidence, both of the
4 following:

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

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

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

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

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

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

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

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

9 This paragraph shall not apply to the following:

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

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

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

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

33 (iii) any item of intangible expense or cost
34 paid, accrued, or incurred, directly or

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

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

17 (G-15) For taxable years ending on or after
18 December 31, 2005, an amount equal to the sum of: (i)
19 any deduction taken under Section 179 of the Internal
20 Revenue Code for a sport utility vehicle for the
21 taxable year; plus (ii) any deduction taken under
22 Section 167(a) of the Internal Revenue Code for
23 depreciation of a sport utility vehicle for the taxable
24 year;

25 (G-20) If the taxpayer reports a capital gain or
26 loss on the taxpayer's federal income tax return for
27 the taxable year based on a sale or transfer of a sport
28 utility vehicle for which the taxpayer was required in
29 any taxable year to make an addition modification under
30 subparagraph (G-15), then an amount equal to the
31 aggregate amount of the deductions taken in all taxable
32 years under subparagraph (W) with respect to that sport
33 utility vehicle. The taxpayer is required to make the
34 addition modification under this subparagraph only

1 once with respect to any one sport utility vehicle;

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

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

15 (I) The valuation limitation amount;

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

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

30 (L) With the exception of any amounts subtracted
31 under subparagraph (K), an amount equal to the sum of
32 all amounts disallowed as deductions by (i) Sections
33 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
34 as now or hereafter amended, and all amounts of

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

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

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

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

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

32 (Q) For taxable year 1999 and thereafter, an amount
33 equal to the amount of any (i) distributions, to the
34 extent includible in gross income for federal income

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

31 (R) For taxable years 2001 and thereafter, for the
32 taxable year in which the bonus depreciation deduction
33 (30% of the adjusted basis of the qualified property)
34 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal
2 Revenue Code and for each applicable taxable year
3 thereafter, an amount equal to "x", where:

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

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

14 The aggregate amount deducted under this
15 subparagraph in all taxable years for any one piece of
16 property may not exceed the amount of the bonus
17 depreciation deduction (30% of the adjusted basis of
18 the qualified property) taken on that property on the
19 taxpayer's federal income tax return under subsection
20 (k) of Section 168 of the Internal Revenue Code;

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

28 The taxpayer is allowed to take the deduction under
29 this subparagraph only once with respect to any one
30 piece of property;

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

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

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

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

1 intangible expenses and costs paid, accrued, or
2 incurred, directly or indirectly, to the same foreign
3 person;

4 (W) For a taxable year in which an amount is added
5 back under paragraph (G-15) with respect to a sport
6 utility vehicle and for each subsequent taxable year,
7 an amount equal to the deduction, if any, to which the
8 taxpayer would have been entitled under Section 179 or
9 Section 167(a) of the Internal Revenue Code with
10 respect to that sport utility vehicle if that sport
11 utility vehicle were a "passenger automobile" within
12 the meaning of Section 280F(d)(5) of the Internal
13 Revenue Code. This subparagraph (W) is exempt from the
14 provisions of Section 250; and

15 (X) If the taxpayer reports a capital gain or loss
16 on the taxpayer's federal income tax return for the
17 taxable year based on a sale or transfer of a sport
18 utility vehicle for which the taxpayer was required in
19 any taxable year to make an addition modification under
20 subparagraph (G-15), then an amount equal to that
21 addition modification. The taxpayer is allowed to take
22 the deduction under this subparagraph only once with
23 respect to any one sport utility vehicle. This
24 subparagraph (X) is exempt from the provisions of
25 Section 250.

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

33 (d) Partnerships.

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

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

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

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

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

21 (D-5) For taxable years 2001 and thereafter, an
22 amount equal to the bonus depreciation deduction (30%
23 of the adjusted basis of the qualified property) taken
24 on the taxpayer's federal income tax return for the
25 taxable year under subsection (k) of Section 168 of the
26 Internal Revenue Code. This subparagraph (D-5) shall
27 not apply to any sport utility vehicle for which an
28 amount is added back under subparagraph (D-10);

29 (D-6) If the taxpayer reports a capital gain or
30 loss on the taxpayer's federal income tax return for
31 the taxable year based on a sale or transfer of
32 property for which the taxpayer was required in any
33 taxable year to make an addition modification under
34 subparagraph (D-5), then an amount equal to the

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

4 The taxpayer is required to make the addition
5 modification under this subparagraph only once with
6 respect to any one piece of property;

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

26 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

8 This paragraph shall not apply to the following:

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

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

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

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

32 (iii) any item of intangible expense or cost
33 paid, accrued, or incurred, directly or
34 indirectly, from a transaction with a foreign

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

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

16 (D-10) For taxable years ending on or after
17 December 31, 2005, an amount equal to the sum of: (i)
18 any deduction taken under Section 179 of the Internal
19 Revenue Code for a sport utility vehicle for the
20 taxable year; plus (ii) any deduction taken under
21 Section 167(a) of the Internal Revenue Code for
22 depreciation of a sport utility vehicle for the taxable
23 year;

24 (D-15) If the taxpayer reports a capital gain or
25 loss on the taxpayer's federal income tax return for
26 the taxable year based on a sale or transfer of a sport
27 utility vehicle for which the taxpayer was required in
28 any taxable year to make an addition modification under
29 subparagraph (D-10), then an amount equal to the
30 aggregate amount of the deductions taken in all taxable
31 years under subparagraph (T) with respect to that sport
32 utility vehicle. The taxpayer is required to make the
33 addition modification under this subparagraph only
34 once with respect to any one sport utility vehicle;

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

3 (E) The valuation limitation amount;

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

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

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

23 (I) An amount equal to all amounts of income
24 distributable to an entity subject to the Personal
25 Property Tax Replacement Income Tax imposed by
26 subsections (c) and (d) of Section 201 of this Act
27 including amounts distributable to organizations
28 exempt from federal income tax by reason of Section
29 501(a) of the Internal Revenue Code;

30 (J) With the exception of any amounts subtracted
31 under subparagraph (G), an amount equal to the sum of
32 all amounts disallowed as deductions by (i) Sections
33 171(a) (2), and 265(2) of the Internal Revenue Code of
34 1954, as now or hereafter amended, and all amounts of

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

9 (K) An amount equal to those dividends included in
10 such total which were paid by a corporation which
11 conducts business operations in an Enterprise Zone or
12 zones created under the Illinois Enterprise Zone Act,
13 enacted by the 82nd General Assembly, and conducts
14 substantially all of its operations in an Enterprise
15 Zone or Zones;

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

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

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

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

16 The aggregate amount deducted under this
17 subparagraph in all taxable years for any one piece of
18 property may not exceed the amount of the bonus
19 depreciation deduction (30% of the adjusted basis of
20 the qualified property) taken on that property on the
21 taxpayer's federal income tax return under subsection
22 (k) of Section 168 of the Internal Revenue Code;

23 (P) If the taxpayer reports a capital gain or loss
24 on the taxpayer's federal income tax return for the
25 taxable year based on a sale or transfer of property
26 for which the taxpayer was required in any taxable year
27 to make an addition modification under subparagraph
28 (D-5), then an amount equal to that addition
29 modification.

30 The taxpayer is allowed to take the deduction under
31 this subparagraph only once with respect to any one
32 piece of property;

33 (Q) The amount of (i) any interest income (net of
34 the deductions allocable thereto) taken into account

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

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

27 (S) An amount equal to the income from intangible
28 property taken into account for the taxable year (net
29 of the deductions allocable thereto) with respect to
30 transactions with a foreign person who would be a
31 member of the taxpayer's unitary business group but for
32 the fact that the foreign person's business activity
33 outside the United States is 80% or more of that
34 person's total business activity, but not to exceed the

1 addition modification required to be made for the same
2 taxable year under Section 203(d)(2)(D-8) for
3 intangible expenses and costs paid, accrued, or
4 incurred, directly or indirectly, to the same foreign
5 person;—

6 (T) For a taxable year in which an amount is added
7 back under paragraph (D-10) with respect to a sport
8 utility vehicle and for each subsequent taxable year,
9 an amount equal to the deduction, if any, to which the
10 taxpayer would have been entitled under Section 179 or
11 Section 167(a) of the Internal Revenue Code with
12 respect to that sport utility vehicle if that sport
13 utility vehicle were a "passenger automobile" within
14 the meaning of Section 280F(d)(5) of the Internal
15 Revenue Code. This subparagraph (T) is exempt from the
16 provisions of Section 250; and

17 (U) If the taxpayer reports a capital gain or loss
18 on the taxpayer's federal income tax return for the
19 taxable year based on a sale or transfer of a sport
20 utility vehicle for which the taxpayer was required in
21 any taxable year to make an addition modification under
22 subparagraph (D-10), then an amount equal to that
23 addition modification. The taxpayer is allowed to take
24 the deduction under this subparagraph only once with
25 respect to any one sport utility vehicle. This
26 subparagraph (U) is exempt from the provisions of
27 Section 250.

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

29 (1) In general. Subject to the provisions of paragraph
30 (2) and subsection (b) (3), for purposes of this Section
31 and Section 803(e), a taxpayer's gross income, adjusted
32 gross income, or taxable income for the taxable year shall
33 mean the amount of gross income, adjusted gross income or

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

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

31 (A) Certain life insurance companies. In the case
32 of a life insurance company subject to the tax imposed
33 by Section 801 of the Internal Revenue Code, life
34 insurance company taxable income, plus the amount of

1 distribution from pre-1984 policyholder surplus
2 accounts as calculated under Section 815a of the
3 Internal Revenue Code;

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

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

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

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

28 (F) Cooperatives. In the case of a cooperative
29 corporation or association, the taxable income of such
30 organization determined in accordance with the
31 provisions of Section 1381 through 1388 of the Internal
32 Revenue Code;

33 (G) Subchapter S corporations. In the case of: (i)
34 a Subchapter S corporation for which there is in effect

1 an election for the taxable year under Section 1362 of
2 the Internal Revenue Code, the taxable income of such
3 corporation determined in accordance with Section
4 1363(b) of the Internal Revenue Code, except that
5 taxable income shall take into account those items
6 which are required by Section 1363(b)(1) of the
7 Internal Revenue Code to be separately stated; and (ii)
8 a Subchapter S corporation for which there is in effect
9 a federal election to opt out of the provisions of the
10 Subchapter S Revision Act of 1982 and have applied
11 instead the prior federal Subchapter S rules as in
12 effect on July 1, 1982, the taxable income of such
13 corporation determined in accordance with the federal
14 Subchapter S rules as in effect on July 1, 1982; and

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

22 (3) Recapture of business expenses on disposition of
23 asset or business. Notwithstanding any other law to the
24 contrary, if in prior years income from an asset or
25 business has been classified as business income and in a
26 later year is demonstrated to be non-business income, then
27 all expenses, without limitation, deducted in such later
28 year and in the 2 immediately preceding taxable years
29 related to that asset or business that generated the
30 non-business income shall be added back and recaptured as
31 business income in the year of the disposition of the asset
32 or business. Such amount shall be apportioned to Illinois
33 using the greater of the apportionment fraction computed
34 for the business under Section 304 of this Act for the

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

5 (f) Valuation limitation amount.

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

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

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

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

23 (A) If the fair market value of property referred
24 to in paragraph (1) was readily ascertainable on August
25 1, 1969, the pre-August 1, 1969 appreciation amount for
26 such property is the lesser of (i) the excess of such
27 fair market value over the taxpayer's basis (for
28 determining gain) for such property on that date
29 (determined under the Internal Revenue Code as in
30 effect on that date), or (ii) the total gain realized
31 and reportable for federal income tax purposes in
32 respect of the sale, exchange or other disposition of
33 such property.

34 (B) If the fair market value of property referred

1 to in paragraph (1) was not readily ascertainable on
2 August 1, 1969, the pre-August 1, 1969 appreciation
3 amount for such property is that amount which bears the
4 same ratio to the total gain reported in respect of the
5 property for federal income tax purposes for the
6 taxable year, as the number of full calendar months in
7 that part of the taxpayer's holding period for the
8 property ending July 31, 1969 bears to the number of
9 full calendar months in the taxpayer's entire holding
10 period for the property.

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

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

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

26 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
27 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
28 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
29 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

30 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

31 Sec. 1501. Definitions.

1 (a) In general. When used in this Act, where not otherwise
2 distinctly expressed or manifestly incompatible with the
3 intent thereof:

4 (1) Business income. The term "business income" means
5 all income that may be treated as apportionable business
6 income under the Constitution of the United States.
7 Business income is net of the deductions allocable thereto.
8 Such term does not include compensation or the deductions
9 allocable thereto. For each taxable year beginning on or
10 after January 1, 2003, a taxpayer may elect to treat all
11 income other than compensation as business income. This
12 election shall be made in accordance with rules adopted by
13 the Department and, once made, shall be irrevocable.

14 (2) Commercial domicile. The term "commercial
15 domicile" means the principal place from which the trade or
16 business of the taxpayer is directed or managed.

17 (3) Compensation. The term "compensation" means wages,
18 salaries, commissions and any other form of remuneration
19 paid to employees for personal services.

20 (4) Corporation. The term "corporation" includes
21 associations, joint-stock companies, insurance companies
22 and cooperatives. Any entity, including a limited
23 liability company formed under the Illinois Limited
24 Liability Company Act, shall be treated as a corporation if
25 it is so classified for federal income tax purposes.

26 (5) Department. The term "Department" means the
27 Department of Revenue of this State.

28 (6) Director. The term "Director" means the Director of
29 Revenue of this State.

30 (7) Fiduciary. The term "fiduciary" means a guardian,
31 trustee, executor, administrator, receiver, or any person
32 acting in any fiduciary capacity for any person.

33 (8) Financial organization.

34 (A) The term "financial organization" means any

1 bank, bank holding company, trust company, savings
2 bank, industrial bank, land bank, safe deposit
3 company, private banker, savings and loan association,
4 building and loan association, credit union, currency
5 exchange, cooperative bank, small loan company, sales
6 finance company, investment company, or any person
7 which is owned by a bank or bank holding company. For
8 the purpose of this Section a "person" will include
9 only those persons which a bank holding company may
10 acquire and hold an interest in, directly or
11 indirectly, under the provisions of the Bank Holding
12 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
13 where interests in any person must be disposed of
14 within certain required time limits under the Bank
15 Holding Company Act of 1956.

16 (B) For purposes of subparagraph (A) of this
17 paragraph, the term "bank" includes (i) any entity that
18 is regulated by the Comptroller of the Currency under
19 the National Bank Act, or by the Federal Reserve Board,
20 or by the Federal Deposit Insurance Corporation and
21 (ii) any federally or State chartered bank operating as
22 a credit card bank.

23 (C) For purposes of subparagraph (A) of this
24 paragraph, the term "sales finance company" has the
25 meaning provided in the following item (i) or (ii):

26 (i) A person primarily engaged in one or more
27 of the following businesses: the business of
28 purchasing customer receivables, the business of
29 making loans upon the security of customer
30 receivables, the business of making loans for the
31 express purpose of funding purchases of tangible
32 personal property or services by the borrower, or
33 the business of finance leasing. For purposes of
34 this item (i), "customer receivable" means:

1 (a) a retail installment contract or
2 retail charge agreement within the meaning of
3 the Sales Finance Agency Act, the Retail
4 Installment Sales Act, or the Motor Vehicle
5 Retail Installment Sales Act;

6 (b) an installment, charge, credit, or
7 similar contract or agreement arising from the
8 sale of tangible personal property or services
9 in a transaction involving a deferred payment
10 price payable in one or more installments
11 subsequent to the sale; or

12 (c) the outstanding balance of a contract
13 or agreement described in provisions (a) or (b)
14 of this item (i).

15 A customer receivable need not provide for
16 payment of interest on deferred payments. A sales
17 finance company may purchase a customer receivable
18 from, or make a loan secured by a customer
19 receivable to, the seller in the original
20 transaction or to a person who purchased the
21 customer receivable directly or indirectly from
22 that seller.

23 (ii) A corporation meeting each of the
24 following criteria:

25 (a) the corporation must be a member of an
26 "affiliated group" within the meaning of
27 Section 1504(a) of the Internal Revenue Code,
28 determined without regard to Section 1504(b)
29 of the Internal Revenue Code;

30 (b) more than 50% of the gross income of
31 the corporation for the taxable year must be
32 interest income derived from qualifying loans.
33 A "qualifying loan" is a loan made to a member
34 of the corporation's affiliated group that

1 originates customer receivables (within the
2 meaning of item (i)) or to whom customer
3 receivables originated by a member of the
4 affiliated group have been transferred, to the
5 extent the average outstanding balance of
6 loans from that corporation to members of its
7 affiliated group during the taxable year do not
8 exceed the limitation amount for that
9 corporation. The "limitation amount" for a
10 corporation is the average outstanding
11 balances during the taxable year of customer
12 receivables (within the meaning of item (i))
13 originated by all members of the affiliated
14 group. If the average outstanding balances of
15 the loans made by a corporation to members of
16 its affiliated group exceed the limitation
17 amount, the interest income of that
18 corporation from qualifying loans shall be
19 equal to its interest income from loans to
20 members of its affiliated groups times a
21 fraction equal to the limitation amount
22 divided by the average outstanding balances of
23 the loans made by that corporation to members
24 of its affiliated group;

25 (c) the total of all shareholder's equity
26 (including, without limitation, paid-in
27 capital on common and preferred stock and
28 retained earnings) of the corporation plus the
29 total of all of its loans, advances, and other
30 obligations payable or owed to members of its
31 affiliated group may not exceed 20% of the
32 total assets of the corporation at any time
33 during the tax year; and

34 (d) more than 50% of all interest-bearing

1 obligations of the affiliated group payable to
2 persons outside the group determined in
3 accordance with generally accepted accounting
4 principles must be obligations of the
5 corporation.

6 This amendatory Act of the 91st General Assembly is
7 declaratory of existing law.

8 (D) Subparagraphs (B) and (C) of this paragraph are
9 declaratory of existing law and apply retroactively,
10 for all tax years beginning on or before December 31,
11 1996, to all original returns, to all amended returns
12 filed no later than 30 days after the effective date of
13 this amendatory Act of 1996, and to all notices issued
14 on or before the effective date of this amendatory Act
15 of 1996 under subsection (a) of Section 903, subsection
16 (a) of Section 904, subsection (e) of Section 909, or
17 Section 912. A taxpayer that is a "financial
18 organization" that engages in any transaction with an
19 affiliate shall be a "financial organization" for all
20 purposes of this Act.

21 (E) For all tax years beginning on or before
22 December 31, 1996, a taxpayer that falls within the
23 definition of a "financial organization" under
24 subparagraphs (B) or (C) of this paragraph, but who
25 does not fall within the definition of a "financial
26 organization" under the Proposed Regulations issued by
27 the Department of Revenue on July 19, 1996, may
28 irrevocably elect to apply the Proposed Regulations
29 for all of those years as though the Proposed
30 Regulations had been lawfully promulgated, adopted,
31 and in effect for all of those years. For purposes of
32 applying subparagraphs (B) or (C) of this paragraph to
33 all of those years, the election allowed by this
34 subparagraph applies only to the taxpayer making the

1 election and to those members of the taxpayer's unitary
2 business group who are ordinarily required to
3 apportion business income under the same subsection of
4 Section 304 of this Act as the taxpayer making the
5 election. No election allowed by this subparagraph
6 shall be made under a claim filed under subsection (d)
7 of Section 909 more than 30 days after the effective
8 date of this amendatory Act of 1996.

9 (F) Finance Leases. For purposes of this
10 subsection, a finance lease shall be treated as a loan
11 or other extension of credit, rather than as a lease,
12 regardless of how the transaction is characterized for
13 any other purpose, including the purposes of any
14 regulatory agency to which the lessor is subject. A
15 finance lease is any transaction in the form of a lease
16 in which the lessee is treated as the owner of the
17 leased asset entitled to any deduction for
18 depreciation allowed under Section 167 of the Internal
19 Revenue Code.

20 (9) Fiscal year. The term "fiscal year" means an
21 accounting period of 12 months ending on the last day of
22 any month other than December.

23 (10) Includes and including. The terms "includes" and
24 "including" when used in a definition contained in this Act
25 shall not be deemed to exclude other things otherwise
26 within the meaning of the term defined.

27 (11) Internal Revenue Code. The term "Internal Revenue
28 Code" means the United States Internal Revenue Code of 1954
29 or any successor law or laws relating to federal income
30 taxes in effect for the taxable year.

31 (11.5) Investment partnership.

32 (A) The term "investment partnership" means any
33 entity that is treated as a partnership for federal
34 income tax purposes that meets the following

1 requirements:

2 (i) no less than 90% of the partnership's cost
3 of its total assets consists of qualifying
4 investment securities, deposits at banks or other
5 financial institutions, and office space and
6 equipment reasonably necessary to carry on its
7 activities as an investment partnership;

8 (ii) no less than 90% of its gross income
9 consists of interest, dividends, and gains from
10 the sale or exchange of qualifying investment
11 securities; and

12 (iii) the partnership is not a dealer in
13 qualifying investment securities.

14 (B) For purposes of this paragraph (11.5), the term
15 "qualifying investment securities" includes all of the
16 following:

17 (i) common stock, including preferred or debt
18 securities convertible into common stock, and
19 preferred stock;

20 (ii) bonds, debentures, and other debt
21 securities;

22 (iii) foreign and domestic currency deposits
23 secured by federal, state, or local governmental
24 agencies;

25 (iv) mortgage or asset-backed securities
26 secured by federal, state, or local governmental
27 agencies;

28 (v) repurchase agreements and loan
29 participations;

30 (vi) foreign currency exchange contracts and
31 forward and futures contracts on foreign
32 currencies;

33 (vii) stock and bond index securities and
34 futures contracts and other similar financial

1 securities and futures contracts on those
2 securities;

3 (viii) options for the purchase or sale of any
4 of the securities, currencies, contracts, or
5 financial instruments described in items (i) to
6 (vii), inclusive;

7 (ix) regulated futures contracts;

8 (x) commodities (not described in Section
9 1221(a)(1) of the Internal Revenue Code) or
10 futures, forwards, and options with respect to
11 such commodities, provided, however, that any item
12 of a physical commodity to which title is actually
13 acquired in the partnership's capacity as a dealer
14 in such commodity shall not be a qualifying
15 investment security;

16 (xi) derivatives; and

17 (xii) a partnership interest in another
18 partnership that is an investment partnership.

19 (12) Mathematical error. The term "mathematical error"
20 includes the following types of errors, omissions, or
21 defects in a return filed by a taxpayer which prevents
22 acceptance of the return as filed for processing:

23 (A) arithmetic errors or incorrect computations on
24 the return or supporting schedules;

25 (B) entries on the wrong lines;

26 (C) omission of required supporting forms or
27 schedules or the omission of the information in whole
28 or in part called for thereon; and

29 (D) an attempt to claim, exclude, deduct, or
30 improperly report, in a manner directly contrary to the
31 provisions of the Act and regulations thereunder any
32 item of income, exemption, deduction, or credit.

33 (13) Nonbusiness income. The term "nonbusiness income"
34 means all income other than business income or

1 compensation.

2 (14) Nonresident. The term "nonresident" means a
3 person who is not a resident.

4 (15) Paid, incurred and accrued. The terms "paid",
5 "incurred" and "accrued" shall be construed according to
6 the method of accounting upon the basis of which the
7 person's base income is computed under this Act.

8 (16) Partnership and partner. The term "partnership"
9 includes a syndicate, group, pool, joint venture or other
10 unincorporated organization, through or by means of which
11 any business, financial operation, or venture is carried
12 on, and which is not, within the meaning of this Act, a
13 trust or estate or a corporation; and the term "partner"
14 includes a member in such syndicate, group, pool, joint
15 venture or organization.

16 The term "partnership" includes any entity, including
17 a limited liability company formed under the Illinois
18 Limited Liability Company Act, classified as a partnership
19 for federal income tax purposes.

20 The term "partnership" does not include a syndicate,
21 group, pool, joint venture, or other unincorporated
22 organization established for the sole purpose of playing
23 the Illinois State Lottery.

24 (17) Part-year resident. The term "part-year resident"
25 means an individual who became a resident during the
26 taxable year or ceased to be a resident during the taxable
27 year. Under Section 1501(a)(20)(A)(i) residence commences
28 with presence in this State for other than a temporary or
29 transitory purpose and ceases with absence from this State
30 for other than a temporary or transitory purpose. Under
31 Section 1501(a)(20)(A)(ii) residence commences with the
32 establishment of domicile in this State and ceases with the
33 establishment of domicile in another State.

34 (18) Person. The term "person" shall be construed to

1 mean and include an individual, a trust, estate,
2 partnership, association, firm, company, corporation,
3 limited liability company, or fiduciary. For purposes of
4 Section 1301 and 1302 of this Act, a "person" means (i) an
5 individual, (ii) a corporation, (iii) an officer, agent, or
6 employee of a corporation, (iv) a member, agent or employee
7 of a partnership, or (v) a member, manager, employee,
8 officer, director, or agent of a limited liability company
9 who in such capacity commits an offense specified in
10 Section 1301 and 1302.

11 (18A) Records. The term "records" includes all data
12 maintained by the taxpayer, whether on paper, microfilm,
13 microfiche, or any type of machine-sensible data
14 compilation.

15 (19) Regulations. The term "regulations" includes
16 rules promulgated and forms prescribed by the Department.

17 (20) Resident. The term "resident" means:

18 (A) an individual (i) who is in this State for
19 other than a temporary or transitory purpose during the
20 taxable year; or (ii) who is domiciled in this State
21 but is absent from the State for a temporary or
22 transitory purpose during the taxable year;

23 (B) The estate of a decedent who at his or her
24 death was domiciled in this State;

25 (C) A trust created by a will of a decedent who at
26 his death was domiciled in this State; and

27 (D) An irrevocable trust, the grantor of which was
28 domiciled in this State at the time such trust became
29 irrevocable. For purpose of this subparagraph, a trust
30 shall be considered irrevocable to the extent that the
31 grantor is not treated as the owner thereof under
32 Sections 671 through 678 of the Internal Revenue Code.

33 (21) Sales. The term "sales" means all gross receipts
34 of the taxpayer not allocated under Sections 301, 302 and

1 303.

2 (22) State. The term "state" when applied to a
3 jurisdiction other than this State means any state of the
4 United States, the District of Columbia, the Commonwealth
5 of Puerto Rico, any Territory or Possession of the United
6 States, and any foreign country, or any political
7 subdivision of any of the foregoing. For purposes of the
8 foreign tax credit under Section 601, the term "state"
9 means any state of the United States, the District of
10 Columbia, the Commonwealth of Puerto Rico, and any
11 territory or possession of the United States, or any
12 political subdivision of any of the foregoing, effective
13 for tax years ending on or after December 31, 1989.

14 (23) Taxable year. The term "taxable year" means the
15 calendar year, or the fiscal year ending during such
16 calendar year, upon the basis of which the base income is
17 computed under this Act. "Taxable year" means, in the case
18 of a return made for a fractional part of a year under the
19 provisions of this Act, the period for which such return is
20 made.

21 (24) Taxpayer. The term "taxpayer" means any person
22 subject to the tax imposed by this Act.

23 (25) International banking facility. The term
24 international banking facility shall have the same meaning
25 as is set forth in the Illinois Banking Act or as is set
26 forth in the laws of the United States or regulations of
27 the Board of Governors of the Federal Reserve System.

28 (26) Income Tax Return Preparer.

29 (A) The term "income tax return preparer" means any
30 person who prepares for compensation, or who employs
31 one or more persons to prepare for compensation, any
32 return of tax imposed by this Act or any claim for
33 refund of tax imposed by this Act. The preparation of a
34 substantial portion of a return or claim for refund

1 shall be treated as the preparation of that return or
2 claim for refund.

3 (B) A person is not an income tax return preparer
4 if all he or she does is

5 (i) furnish typing, reproducing, or other
6 mechanical assistance;

7 (ii) prepare returns or claims for refunds for
8 the employer by whom he or she is regularly and
9 continuously employed;

10 (iii) prepare as a fiduciary returns or claims
11 for refunds for any person; or

12 (iv) prepare claims for refunds for a taxpayer
13 in response to any notice of deficiency issued to
14 that taxpayer or in response to any waiver of
15 restriction after the commencement of an audit of
16 that taxpayer or of another taxpayer if a
17 determination in the audit of the other taxpayer
18 directly or indirectly affects the tax liability
19 of the taxpayer whose claims he or she is
20 preparing.

21 (27) Unitary business group. The term "unitary
22 business group" means a group of persons related through
23 common ownership whose business activities are integrated
24 with, dependent upon and contribute to each other. The
25 group will not include those members whose business
26 activity outside the United States is 80% or more of any
27 such member's total business activity; for purposes of this
28 paragraph and clause (a)(3)(B)(ii) of Section 304,
29 business activity within the United States shall be
30 measured by means of the factors ordinarily applicable
31 under subsections (a), (b), (c), (d), or (h) of Section 304
32 except that, in the case of members ordinarily required to
33 apportion business income by means of the 3 factor formula
34 of property, payroll and sales specified in subsection (a)

1 of Section 304, including the formula as weighted in
2 subsection (h) of Section 304, such members shall not use
3 the sales factor in the computation and the results of the
4 property and payroll factor computations of subsection (a)
5 of Section 304 shall be divided by 2 (by one if either the
6 property or payroll factor has a denominator of zero). The
7 computation required by the preceding sentence shall, in
8 each case, involve the division of the member's property,
9 payroll, or revenue miles in the United States, insurance
10 premiums on property or risk in the United States, or
11 financial organization business income from sources within
12 the United States, as the case may be, by the respective
13 worldwide figures for such items. Common ownership in the
14 case of corporations is the direct or indirect control or
15 ownership of more than 50% of the outstanding voting stock
16 of the persons carrying on unitary business activity.
17 Unitary business activity can ordinarily be illustrated
18 where the activities of the members are: (1) in the same
19 general line (such as manufacturing, wholesaling,
20 retailing of tangible personal property, insurance,
21 transportation or finance); or (2) are steps in a
22 vertically structured enterprise or process (such as the
23 steps involved in the production of natural resources,
24 which might include exploration, mining, refining, and
25 marketing); and, in either instance, the members are
26 functionally integrated through the exercise of strong
27 centralized management (where, for example, authority over
28 such matters as purchasing, financing, tax compliance,
29 product line, personnel, marketing and capital investment
30 is not left to each member). In no event, however, will any
31 unitary business group include members which are
32 ordinarily required to apportion business income under
33 different subsections of Section 304 except that for tax
34 years ending on or after December 31, 1987 this prohibition

1 shall not apply to a unitary business group composed of one
2 or more taxpayers all of which apportion business income
3 pursuant to subsection (b) of Section 304, or all of which
4 apportion business income pursuant to subsection (d) of
5 Section 304, and a holding company of such single-factor
6 taxpayers (see definition of "financial organization" for
7 rule regarding holding companies of financial
8 organizations). If a unitary business group would, but for
9 the preceding sentence, include members that are
10 ordinarily required to apportion business income under
11 different subsections of Section 304, then for each
12 subsection of Section 304 for which there are two or more
13 members, there shall be a separate unitary business group
14 composed of such members. For purposes of the preceding two
15 sentences, a member is "ordinarily required to apportion
16 business income" under a particular subsection of Section
17 304 if it would be required to use the apportionment method
18 prescribed by such subsection except for the fact that it
19 derives business income solely from Illinois. As used in
20 this paragraph, the phrase "United States" means only the
21 50 states and the District of Columbia, but does not
22 include any territory or possession of the United States or
23 any area over which the United States has asserted
24 jurisdiction or claimed exclusive rights with respect to
25 the exploration for or exploitation of natural resources.

26 If the unitary business group members' accounting
27 periods differ, the common parent's accounting period or,
28 if there is no common parent, the accounting period of the
29 member that is expected to have, on a recurring basis, the
30 greatest Illinois income tax liability must be used to
31 determine whether to use the apportionment method provided
32 in subsection (a) or subsection (h) of Section 304. The
33 prohibition against membership in a unitary business group
34 for taxpayers ordinarily required to apportion income

1 under different subsections of Section 304 does not apply
2 to taxpayers required to apportion income under subsection
3 (a) and subsection (h) of Section 304. The provisions of
4 this amendatory Act of 1998 apply to tax years ending on or
5 after December 31, 1998.

6 (28) Subchapter S corporation. The term "Subchapter S
7 corporation" means a corporation for which there is in
8 effect an election under Section 1362 of the Internal
9 Revenue Code, or for which there is a federal election to
10 opt out of the provisions of the Subchapter S Revision Act
11 of 1982 and have applied instead the prior federal
12 Subchapter S rules as in effect on July 1, 1982.

13 (30) Foreign person. The term "foreign person" means
14 any person who is a nonresident alien individual and any
15 nonindividual entity, regardless of where created or
16 organized, whose business activity outside the United
17 States is 80% or more of the entity's total business
18 activity.

19 (31) Sport utility vehicle. The term "sport utility
20 vehicle" means a four-wheeled vehicle manufactured
21 primarily for use on public streets, roads, and highways
22 that:

23 (A) is rated between 6,000 and 14,000 pounds gross
24 vehicle weight;

25 (B) is designed to seat 9 or fewer individuals; and

26 (C) is not equipped with an open cargo area with an
27 interior length of 72 or more inches that is separate
28 from the passenger compartment.

29 (b) Other definitions.

30 (1) Words denoting number, gender, and so forth, when
31 used in this Act, where not otherwise distinctly expressed
32 or manifestly incompatible with the intent thereof:

33 (A) Words importing the singular include and apply

1 to several persons, parties or things;

2 (B) Words importing the plural include the
3 singular; and

4 (C) Words importing the masculine gender include
5 the feminine as well.

6 (2) "Company" or "association" as including successors
7 and assigns. The word "company" or "association", when used
8 in reference to a corporation, shall be deemed to embrace
9 the words "successors and assigns of such company or
10 association", and in like manner as if these last-named
11 words, or words of similar import, were expressed.

12 (3) Other terms. Any term used in any Section of this
13 Act with respect to the application of, or in connection
14 with, the provisions of any other Section of this Act shall
15 have the same meaning as in such other Section.

16 (Source: P.A. 92-846, eff. 8-23-02; 93-840, eff. 7-30-04.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."