



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

**HB4431**

Introduced 1/6/2006, by Rep. Patricia R. Bellock

#### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/203

from Ch. 120, par. 2-203

Creates the Health Savings Account Act and amends the Illinois Income Tax Act. Provides that, beginning in taxable year 2006, a resident of Illinois or an employer may deposit contributions, subject to certain limitations, into a health savings account. Provides that the principal contributed to and the interest earned on a health savings account and money reimbursed to an eligible individual or an employee for qualified medical expenses is exempt from the Illinois income tax. Sets forth restriction on the use of funds held in a health savings account. Provides that an eligible individual may withdraw money from his or her health savings account for any purpose, but provides that certain withdrawals are not tax exempt. Repeals the Health Savings Account Act on June 30, 2016. Effective July 1, 2006.

LRB094 15627 BDD 50833 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

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

4 Section 1. Short title. This Act may be cited as the Health  
5 Savings Account Act.

6 Section 5. Definitions. As used in this Act:

7 (a) "Eligible individual" means an individual, including  
8 employees of an employer who contributes to health savings  
9 accounts on the employees' behalf, who:

10 (1) is covered by a "high deductible health plan"  
11 individually or with dependents; and

12 (2) is not covered under any health plan that is not a  
13 high deductible health plan, except for:

14 (i) coverage for accidents;

15 (ii) workers' compensation insurance;

16 (iii) insurance for a specified disease or  
17 illness;

18 (iv) insurance paying a fixed amount per day per  
19 hospitalization; and

20 (v) tort liabilities; and

21 (3) establishes a health savings account or on whose  
22 behalf the health savings account is established.

23 (b) "Deductible" means the total deductible of a high  
24 deductible health plan for an eligible individual and all the  
25 dependents of that eligible individual for a calendar year.

26 (c) "Dependent" means an eligible individual's spouse or  
27 child, as defined in Section 152 of the Internal Revenue Code  
28 of 1986.

29 (d) "Qualified medical expense" means an expense paid by  
30 the eligible individual for medical care described in Section  
31 213(d) of the Internal Revenue Code of 1986.

32 (e) "High deductible" means:

1           (1) In the case of self-only coverage, an annual  
2 deductible that is not less than \$1,000 and that, when  
3 added to the other annual out-of-pocket expenses required  
4 to be paid under the plan for covered benefits, does not  
5 exceed \$5,000; and

6           (2) In the case of family coverage, an annual  
7 deductible of not less than \$2,000 and that, when added to  
8 the other annual out-of-pocket expenses required to be paid  
9 under the plan for covered benefits, does not exceed  
10 \$10,000.

11          A plan shall not fail to be treated as a high deductible  
12 plan by reason of a failure to have a deductible for preventive  
13 care or, in the case of network plans, for having out-of-pocket  
14 expenses that exceed these limits on an annual deductible for  
15 services that are provided outside the network.

16          (f) "Health savings account" or "account" means a trust or  
17 custodial account established under a State program  
18 exclusively to pay the qualified medical expenses of an  
19 eligible individual, or his or her dependents, that meets the  
20 all of the following requirements:

21           (1) Except in the case of a rollover contribution, no  
22 contribution may be accepted:

23               (A) unless it is in cash; or

24               (B) to the extent that the contribution, when added  
25 to the previous contributions to the Account for the  
26 calendar year, exceeds the lesser of (i) 100% of the  
27 eligible individual's deductible or (ii) \$2,600 for an  
28 individual or \$5,150 per family. Beginning in taxable  
29 year 2007, the amounts set forth in item (ii) of this  
30 subparagraph (B) are subject to annual adjustments  
31 equal to the percentage of increase in the previous  
32 calendar year in the Consumer Price Index for all Urban  
33 Consumers for all items published by the federal Bureau  
34 of Labor Statistics.

35           (2) The trustee or custodian is a bank, an insurance  
36 company, or another person approved by the Secretary of

1 Human Services.

2 (3) No part of the trust assets will be invested in  
3 life insurance contracts.

4 (4) The assets of the account will not be commingled  
5 with other property except as allowed for under Individual  
6 Retirement Accounts.

7 (5) Eligible individual's interest in the account is  
8 nonforfeitable.

9 (g) "Health Savings Account program" or "program" means a  
10 program that includes all of the following:

11 (1) The purchase by an eligible individual or by an  
12 employer of a high deductible health plan.

13 (2) The contribution into a health savings account by  
14 an eligible individual or on behalf of an employee or by  
15 his or her employer. The total annual contribution may not  
16 exceed the amount of the deductible or the amounts listed  
17 in item (1)(B) of subsection (f) of this Section.

18 (h) "High Deductible Health Plan" means a health coverage  
19 policy, certificate, or contract that provides for payments for  
20 covered benefits that exceed the high deductible.

21 Section 10. Application; authorized contributions; tax  
22 exemption.

23 (a) This Act applies regardless of whether the taxpayer  
24 receives preferred federal tax treatment for a health savings  
25 account under Section 223 of the Internal Revenue Code of 1986.

26 (b) Beginning in taxable year 2006, a resident of Illinois  
27 or an employer may deposit contributions into a health savings  
28 account. The amount of deposit for 2006 may not exceed the  
29 lesser of (i) the amount of the deductible or (ii) \$2,600 for  
30 an individual policy and \$5,150 for a family policy.

31 (c) Except as provided in Section 20, the principal  
32 contributed to and the interest earned on a health savings  
33 account and money reimbursed to an eligible individual or an  
34 employee for qualified medical expenses is exempt from taxation  
35 under the Illinois Income Tax Act.

1 Section 15. Use of funds.

2 (a) The trustee or custodian must use the funds held in a  
3 health savings account solely (i) for the purpose of paying the  
4 qualified medical expenses of the eligible individual or his or  
5 her dependents, (ii) to purchase a health coverage policy  
6 certificate, or contract, if the eligible individual is  
7 receiving unemployment compensation, is exercising  
8 continuation privileges under federal law, or is purchasing a  
9 long term care insurance contract, or (iii) to pay for health  
10 insurance other than a Medicare supplemental policy for those  
11 who are Medicare eligible.

12 (b) Funds held in a health savings account may not be used  
13 to cover expenses of the eligible individual or his or her  
14 dependents that are otherwise covered, including but not  
15 limited to, medical expense covered under an automobile  
16 insurance policy, worker's compensation insurance policy or  
17 self-insured plan, or another employer-funded health coverage  
18 policy, certificate, or contract.

19 Section 20. Withdrawals.

20 (a) An eligible individual may withdraw money from his or  
21 her health savings account for any purpose.

22 (b) Except as otherwise provided in this Section, if the  
23 eligible individual withdraws money for any purpose other than  
24 a purpose described in subsection (a) of Section 15, all of the  
25 following apply:

26 (1) the amount of the withdrawal is income for the  
27 purposes of the Illinois Income Tax Act in the tax year of  
28 the withdrawal; and

29 (2) interest earned on the amount withdrawn from the  
30 account during the tax year in which a withdrawal under  
31 this subsection is made is income for the purposes of the  
32 Illinois Income Tax Act.

33 (c) The amount of disbursement of any assets of a health  
34 savings account under a filing for bankruptcy protection under

1 Title 11 of the United States Code by an eligible individual or  
2 person for whose benefit the account was established is not  
3 considered a withdrawal for purposes of this Section, and the  
4 amount of the disbursement is not subject to taxation under the  
5 Illinois Income Tax Act, and subsection (b) does not apply.

6 (d) The transfer of an eligible individual's interest in a  
7 health savings account to that eligible individual's spouse, or  
8 former spouse under a divorce or separation instrument, is not  
9 considered to be a taxable transfer made by the eligible  
10 individual, and, after the transfer, the interest shall be  
11 treated as a health savings account with the spouse as the  
12 eligible individual. The amount of the transfer is not subject  
13 to taxation under the Illinois Income Tax Act, and subsection  
14 (b) does not apply.

15 (e) Upon the death of the eligible individual, the trustee  
16 or custodian must distribute the principle and accumulated  
17 interest of the health savings account to the estate of the  
18 deceased. The amount of the distribution is not subject to  
19 taxation under the Illinois Income Tax Act, and subsection (b)  
20 does not apply.

21 (f) If an employee becomes employed with a different  
22 employer that participates in a health savings account program,  
23 the employee may transfer his or her health savings account to  
24 that new employer's trustee or custodian or to an individually  
25 purchased account program. The amount of the transfer is not  
26 subject to taxation under the Illinois Income Tax Act, and  
27 subsection (b) does not apply.

28 Section 25. Repeal. This Act is repealed on June 30, 2016.

29 Section 990. The Illinois Income Tax Act is amended by  
30 changing Section 203 as follows:

31 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

32 Sec. 203. Base income defined.

33 (a) Individuals.

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

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

8           (A) An amount equal to all amounts paid or accrued  
9 to the taxpayer as interest or dividends during the  
10 taxable year to the extent excluded from gross income  
11 in the computation of adjusted gross income, except  
12 stock dividends of qualified public utilities  
13 described in Section 305(e) of the Internal Revenue  
14 Code;

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

19           (C) An amount equal to the amount received during  
20 the taxable year as a recovery or refund of real  
21 property taxes paid with respect to the taxpayer's  
22 principal residence under the Revenue Act of 1939 and  
23 for which a deduction was previously taken under  
24 subparagraph (L) of this paragraph (2) prior to July 1,  
25 1991, the retrospective application date of Article 4  
26 of Public Act 87-17. In the case of multi-unit or  
27 multi-use structures and farm dwellings, the taxes on  
28 the taxpayer's principal residence shall be that  
29 portion of the total taxes for the entire property  
30 which is attributable to such principal residence;

31           (D) An amount equal to the amount of the capital  
32 gain deduction allowable under the Internal Revenue  
33 Code, to the extent deducted from gross income in the  
34 computation of adjusted gross income;

35           (D-5) An amount, to the extent not included in  
36 adjusted gross income, equal to the amount of money

1 withdrawn by the taxpayer in the taxable year from a  
2 medical care savings account and the interest earned on  
3 the account in the taxable year of a withdrawal  
4 pursuant to subsection (b) of Section 20 of the Medical  
5 Care Savings Account Act or subsection (b) of Section  
6 20 of the Medical Care Savings Account Act of 2000;

7 (D-10) For taxable years ending after December 31,  
8 1997, an amount equal to any eligible remediation costs  
9 that the individual deducted in computing adjusted  
10 gross income and for which the individual claims a  
11 credit under subsection (l) of Section 201;

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

18 (D-16) If the taxpayer reports a capital gain or  
19 loss on the taxpayer's federal income tax return for  
20 the taxable year based on a sale or transfer of  
21 property for which the taxpayer was required in any  
22 taxable year to make an addition modification under  
23 subparagraph (D-15), then an amount equal to the  
24 aggregate amount of the deductions taken in all taxable  
25 years under subparagraph (Z) with respect to that  
26 property.

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

30 (D-17) For taxable years ending on or after  
31 December 31, 2004, an amount equal to the amount  
32 otherwise allowed as a deduction in computing base  
33 income for interest paid, accrued, or incurred,  
34 directly or indirectly, to a foreign person who would  
35 be a member of the same unitary business group but for  
36 the fact that foreign person's business activity



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

13 This paragraph shall not apply to the following:

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

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

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

36 (iii) the taxpayer can establish, based on

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

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

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

23 (D-18) For taxable years ending on or after  
24 December 31, 2004, an amount equal to the amount of  
25 intangible expenses and costs otherwise allowed as a  
26 deduction in computing base income, and that were paid,  
27 accrued, or incurred, directly or indirectly, to a  
28 foreign person who would be a member of the same  
29 unitary business group but for the fact that the  
30 foreign person's business activity outside the United  
31 States is 80% or more of that person's total business  
32 activity. The addition modification required by this  
33 subparagraph shall be reduced to the extent that  
34 dividends were included in base income of the unitary  
35 group for the same taxable year and received by the  
36 taxpayer or by a member of the taxpayer's unitary

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

25 This paragraph shall not apply to the following:

26 (i) any item of intangible expenses or costs  
27 paid, accrued, or incurred, directly or  
28 indirectly, from a transaction with 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 item; or

33 (ii) any item of intangible expense or cost  
34 paid, accrued, or incurred, directly or  
35 indirectly, if the taxpayer can establish, based  
36 on a preponderance of the evidence, both of the

1 following:

2 (a) the foreign person during the same  
3 taxable year paid, accrued, or incurred, the  
4 intangible expense or cost to a person that is  
5 not a related member, and

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

13 (iii) any item of intangible expense or cost  
14 paid, accrued, or incurred, directly or  
15 indirectly, from a transaction with a foreign  
16 person if the taxpayer establishes by clear and  
17 convincing evidence, that the adjustments are  
18 unreasonable; or if the taxpayer and the Director  
19 agree in writing to the application or use of an  
20 alternative method of apportionment under Section  
21 304(f);

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

31 (D-20) For taxable years beginning on or after  
32 January 1, 2002, in the case of a distribution from a  
33 qualified tuition program under Section 529 of the  
34 Internal Revenue Code, other than (i) a distribution  
35 from a College Savings Pool created under Section 16.5  
36 of the State Treasurer Act or (ii) a distribution from

1 the Illinois Prepaid Tuition Trust Fund, an amount  
2 equal to the amount excluded from gross income under  
3 Section 529(c) (3) (B);

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

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

33 (F) An amount equal to all amounts included in such  
34 total pursuant to the provisions of Sections 402(a),  
35 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the  
36 Internal Revenue Code, or included in such total as

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

8 (G) The valuation limitation amount;

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

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

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

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

32 (L) For taxable years ending after December 31,  
33 1983, an amount equal to all social security benefits  
34 and railroad retirement benefits included in such  
35 total pursuant to Sections 72(r) and 86 of the Internal  
36 Revenue Code;

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

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

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

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

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

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

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

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

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

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

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



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

14 (W) For taxable years beginning on or after January  
15 1, 1998, all amounts included in the taxpayer's federal  
16 gross income in the taxable year from amounts converted  
17 from a regular IRA to a Roth IRA. This paragraph is  
18 exempt from the provisions of Section 250;

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

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

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

34 (Z) For taxable years 2001 and thereafter, for the  
35 taxable year in which the bonus depreciation deduction  
36 (30% of the adjusted basis of the qualified property)

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

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

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

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

22 (AA) If the taxpayer reports a capital gain or loss  
23 on the taxpayer's federal income tax return for the  
24 taxable year based on a sale or transfer of property  
25 for which the taxpayer was required in any taxable year  
26 to make an addition modification under subparagraph  
27 (D-15), then an amount equal to that addition  
28 modification.

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

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

35 (CC) The amount of (i) any interest income (net of  
36 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-13),  
5 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
6 the amount of that 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-14), 203(c)(2)(G-13), or  
13 203(d)(2)(D-8), but not to exceed the amount of that  
14 addition modification;

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

27 (EE) 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  
35 addition modification required to be made for the same  
36 taxable year under Section 203(a)(2)(D-18) for

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

4 (FF) For taxable years ending after December 31,  
5 2006 and on or before December 30, 2017, all amounts  
6 included in the taxpayer's federal gross income in the  
7 taxable year consisting of (i) the principal  
8 contributed to and the interest earned on a health  
9 savings account and (ii) money reimbursed to an  
10 eligible individual or an employee from a health  
11 savings account for qualified medical expenses under  
12 the Health Savings Account Act.

13 (b) Corporations.

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

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

20 (A) An amount equal to all amounts paid or accrued  
21 to the taxpayer as interest and all distributions  
22 received from regulated investment companies during  
23 the taxable year to the extent excluded from gross  
24 income in the computation of taxable income;

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

28 (C) In the case of a regulated investment company,  
29 an amount equal to the excess of (i) the net long-term  
30 capital gain for the taxable year, over (ii) the amount  
31 of the capital gain dividends designated as such in  
32 accordance with Section 852(b)(3)(C) of the Internal  
33 Revenue Code and any amount designated under Section  
34 852(b)(3)(D) of the Internal Revenue Code,  
35 attributable to the taxable year (this amendatory Act

1 of 1995 (Public Act 89-89) is declarative of existing  
2 law and is not a new enactment);

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

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

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

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

30 For taxable years in which there is a net operating  
31 loss carryback or carryforward from more than one other  
32 taxable year ending prior to December 31, 1986, the  
33 addition modification provided in this subparagraph  
34 (E) shall be the sum of the amounts computed  
35 independently under the preceding provisions of this  
36 subparagraph (E) for each such taxable year;

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

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

12 (E-11) If the taxpayer reports a capital gain or  
13 loss on the taxpayer's federal income tax return for  
14 the taxable year based on a sale or transfer of  
15 property for which the taxpayer was required in any  
16 taxable year to make an addition modification under  
17 subparagraph (E-10), then an amount equal to the  
18 aggregate amount of the deductions taken in all taxable  
19 years under subparagraph (T) with respect to that  
20 property.

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

24 (E-12) For taxable years ending on or after  
25 December 31, 2004, an amount equal to the amount  
26 otherwise allowed as a deduction in computing base  
27 income for interest paid, accrued, or incurred,  
28 directly or indirectly, to a foreign person who would  
29 be a member of the same unitary business group but for  
30 the fact the foreign person's business activity  
31 outside the United States is 80% or more of the foreign  
32 person's total business activity. The addition  
33 modification required by this subparagraph shall be  
34 reduced to the extent that dividends were included in  
35 base income of the unitary group for the same taxable  
36 year and received by the taxpayer or by a member of the

1 taxpayer's unitary business group (including amounts  
2 included in gross income pursuant to Sections 951  
3 through 964 of the Internal Revenue Code and amounts  
4 included in gross income under Section 78 of the  
5 Internal Revenue Code) with respect to the stock of the  
6 same person to whom the interest was paid, accrued, or  
7 incurred.

8 This paragraph shall not apply to the following:

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

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

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

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

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



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

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

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

1 the intangible expenses and costs were directly or  
2 indirectly paid, incurred, or accrued. The preceding  
3 sentence shall not apply to the extent that the same  
4 dividends caused a reduction to the addition  
5 modification required under Section 203(b)(2)(E-12) of  
6 this Act. As used in this subparagraph, the term  
7 "intangible expenses and costs" includes (1) expenses,  
8 losses, and costs for, or related to, the direct or  
9 indirect acquisition, use, maintenance or management,  
10 ownership, sale, exchange, or any other disposition of  
11 intangible property; (2) losses incurred, directly or  
12 indirectly, from factoring transactions or discounting  
13 transactions; (3) royalty, patent, technical, and  
14 copyright fees; (4) licensing fees; and (5) other  
15 similar expenses and costs. For purposes of this  
16 subparagraph, "intangible property" includes patents,  
17 patent applications, trade names, trademarks, service  
18 marks, copyrights, mask works, trade secrets, and  
19 similar types of intangible assets.

20 This paragraph shall not apply to the following:

21 (i) any item of intangible expenses or costs  
22 paid, accrued, or incurred, directly or  
23 indirectly, from a transaction with 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 item; or

28 (ii) any item of intangible expense or cost  
29 paid, accrued, or incurred, directly or  
30 indirectly, if the taxpayer can establish, based  
31 on a 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  
35 intangible expense or cost to a person that is  
36 not a related member, and

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

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

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

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

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

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

33 (H) In the case of a regulated investment company,  
34 an amount equal to the amount of exempt interest  
35 dividends as defined in subsection (b) (5) of Section  
36 852 of the Internal Revenue Code, paid to shareholders

1 for the taxable year;

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

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

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

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

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

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

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

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

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

21 (O) An amount equal to: (i) 85% for taxable years  
22 ending on or before December 31, 1992, or, a percentage  
23 equal to the percentage allowable under Section  
24 243(a)(1) of the Internal Revenue Code of 1986 for  
25 taxable years ending after December 31, 1992, of the  
26 amount by which dividends included in taxable income  
27 and received from a corporation that is not created or  
28 organized under the laws of the United States or any  
29 state or political subdivision thereof, including, for  
30 taxable years ending on or after December 31, 1988,  
31 dividends received or deemed received or paid or deemed  
32 paid under Sections 951 through 964 of the Internal  
33 Revenue Code, exceed the amount of the modification  
34 provided under subparagraph (G) of paragraph (2) of  
35 this subsection (b) which is related to such dividends;  
36 plus (ii) 100% of the amount by which dividends,

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

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

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

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

31 (S) For taxable years ending on or after December  
32 31, 1997, in the case of a Subchapter S corporation, an  
33 amount equal to all amounts of income allocable to a  
34 shareholder subject to the Personal Property Tax  
35 Replacement Income Tax imposed by subsections (c) and  
36 (d) of Section 201 of this Act, including amounts

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

5 (T) For taxable years 2001 and thereafter, for the  
6 taxable year in which the bonus depreciation deduction  
7 (30% of the adjusted basis of the qualified property)  
8 is taken on the taxpayer's federal income tax return  
9 under subsection (k) of Section 168 of the Internal  
10 Revenue Code and for each applicable taxable year  
11 thereafter, an amount equal to "x", where:

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

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

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

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

36 The taxpayer is allowed to take the deduction under



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

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

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

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

1 outside the United States is 80% or more of that  
2 person's total business activity, but not to exceed the  
3 addition modification required to be made for the same  
4 taxable year under Section 203(b)(2)(E-13) for  
5 intangible expenses and costs paid, accrued, or  
6 incurred, directly or indirectly, to the same foreign  
7 person.

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

12 (c) Trusts and estates.

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

16 (2) Modifications. Subject to the provisions of  
17 paragraph (3), the taxable income referred to in paragraph  
18 (1) shall be modified by adding thereto the sum of the  
19 following amounts:

20 (A) An amount equal to all amounts paid or accrued  
21 to the taxpayer as interest or dividends during the  
22 taxable year to the extent excluded from gross income  
23 in the computation of taxable income;

24 (B) In the case of (i) an estate, \$600; (ii) a  
25 trust which, under its governing instrument, is  
26 required to distribute all of its income currently,  
27 \$300; and (iii) any other trust, \$100, but in each such  
28 case, only to the extent such amount was deducted in  
29 the computation of taxable income;

30 (C) 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 (D) The amount of any net operating loss deduction  
34 taken in arriving at taxable income, other than a net  
35 operating loss carried forward from a taxable year

1 ending prior to December 31, 1986;

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

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

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

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

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

1 Act;

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

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

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

17 (G-11) If the taxpayer reports a capital gain or  
18 loss on the taxpayer's federal income tax return for  
19 the taxable year based on a sale or transfer of  
20 property for which the taxpayer was required in any  
21 taxable year to make an addition modification under  
22 subparagraph (G-10), then an amount equal to the  
23 aggregate amount of the deductions taken in all taxable  
24 years under subparagraph (R) with respect to that  
25 property.

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

29 (G-12) For taxable years ending on or after  
30 December 31, 2004, an amount equal to the amount  
31 otherwise allowed as a deduction in computing base  
32 income for interest paid, accrued, or incurred,  
33 directly or indirectly, to a foreign person who would  
34 be a member of the same unitary business group but for  
35 the fact that the foreign person's business activity  
36 outside the United States is 80% or more of the foreign

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

13 This paragraph shall not apply to the following:

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

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

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

36 (iii) the taxpayer can establish, based on

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

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

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

23 (G-13) For taxable years ending on or after  
24 December 31, 2004, an amount equal to the amount of  
25 intangible expenses and costs otherwise allowed as a  
26 deduction in computing base income, and that were paid,  
27 accrued, or incurred, directly or indirectly, to a  
28 foreign person who would be a member of the same  
29 unitary business group but for the fact that the  
30 foreign person's business activity outside the United  
31 States is 80% or more of that person's total business  
32 activity. The addition modification required by this  
33 subparagraph shall be reduced to the extent that  
34 dividends were included in base income of the unitary  
35 group for the same taxable year and received by the  
36 taxpayer or by a member of the taxpayer's unitary

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

25 This paragraph shall not apply to the following:

26 (i) any item of intangible expenses or costs  
27 paid, accrued, or incurred, directly or  
28 indirectly, from a transaction with 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 item; or

33 (ii) any item of intangible expense or cost  
34 paid, accrued, or incurred, directly or  
35 indirectly, if the taxpayer can establish, based  
36 on a preponderance of the evidence, both of the

1 following:

2 (a) the foreign person during the same  
3 taxable year paid, accrued, or incurred, the  
4 intangible expense or cost to a person that is  
5 not a related member, and

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

13 (iii) any item of intangible expense or cost  
14 paid, accrued, or incurred, directly or  
15 indirectly, from a transaction with a foreign  
16 person if the taxpayer establishes by clear and  
17 convincing evidence, that the adjustments are  
18 unreasonable; or if the taxpayer and the Director  
19 agree in writing to the application or use of an  
20 alternative method of apportionment under Section  
21 304(f);

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

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

33 (H) An amount equal to all amounts included in such  
34 total pursuant to the provisions of Sections 402(a),  
35 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the  
36 Internal Revenue Code or included in such total as



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

8 (I) The valuation limitation amount;

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

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

23 (L) With the exception of any amounts subtracted  
24 under subparagraph (K), an amount equal to the sum of  
25 all amounts disallowed as deductions by (i) Sections  
26 171(a) (2) and 265(a) (2) of the Internal Revenue Code,  
27 as now or hereafter amended, and all amounts of  
28 expenses allocable to interest and disallowed as  
29 deductions by Section 265(1) of the Internal Revenue  
30 Code of 1954, as now or hereafter amended; and (ii) for  
31 taxable years ending on or after August 13, 1999,  
32 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of  
33 the Internal Revenue Code; the provisions of this  
34 subparagraph are exempt from the provisions of Section  
35 250;

36 (M) An amount equal to those dividends included in

1 such total which were paid by a corporation which  
2 conducts business operations in an Enterprise Zone or  
3 zones created under the Illinois Enterprise Zone Act  
4 and conducts substantially all of its operations in an  
5 Enterprise Zone or Zones;

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

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

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

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

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

20 (R) 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

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

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

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

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

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

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

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

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

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

30 (d) Partnerships.

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

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

1 of the following amounts:

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

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

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

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

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

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

34 (D-7) For taxable years ending on or after December  
35 31, 2004, an amount equal to the amount otherwise  
36 allowed as a deduction in computing base income for

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

17 This paragraph shall not apply to the following:

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

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

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

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

1           and is paid pursuant to a contract or agreement  
2           that reflects an arm's-length interest rate  
3           and terms; or

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

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

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

27          (D-8) For taxable years ending on or after December  
28          31, 2004, an amount equal to the amount of intangible  
29          expenses and costs otherwise allowed as a deduction in  
30          computing base income, and that were paid, accrued, or  
31          incurred, directly or indirectly, to a foreign person  
32          who would be a member of the same unitary business  
33          group but for the fact that the foreign person's  
34          business activity outside the United States is 80% or  
35          more of that person's total business activity. The  
36          addition modification required by this subparagraph



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

29 This paragraph shall not apply to the following:

30 (i) any item of intangible expenses or costs  
31 paid, accrued, or incurred, directly or  
32 indirectly, from a transaction with a foreign  
33 person who is subject in a foreign country or  
34 state, other than a state which requires mandatory  
35 unitary reporting, to a tax on or measured by net  
36 income with respect to such item; or

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

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

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

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

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

35 and by deducting from the total so obtained the following  
36 amounts:

1 (E) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (1) In general. Subject to the provisions of paragraph  
34 (2) and subsection (b) (3), for purposes of this Section  
35 and Section 803(e), a taxpayer's gross income, adjusted

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

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

33 (A) Certain life insurance companies. In the case  
34 of a life insurance company subject to the tax imposed  
35 by Section 801 of the Internal Revenue Code, life  
36 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  
35 an election for the taxable year under Section 1362 of  
36 the Internal Revenue Code, the taxable income of such



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

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

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

1 (f) Valuation limitation amount.

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

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

10 (B) The lesser of (i) the sum of the pre-August 1,  
11 1969 appreciation amounts (to the extent consisting of  
12 capital gain) for all property in respect of which such  
13 gain was reported for federal income tax purposes for  
14 the taxable year, or (ii) the net capital gain for the  
15 taxable year, reduced in either case by any amount of  
16 such gain included in the amount determined under  
17 subsection (a) (2) (F) or (c) (2) (H).

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

19 (A) If the fair market value of property referred  
20 to in paragraph (1) was readily ascertainable on August  
21 1, 1969, the pre-August 1, 1969 appreciation amount for  
22 such property is the lesser of (i) the excess of such  
23 fair market value over the taxpayer's basis (for  
24 determining gain) for such property on that date  
25 (determined under the Internal Revenue Code as in  
26 effect on that date), or (ii) the total gain realized  
27 and reportable for federal income tax purposes in  
28 respect of the sale, exchange or other disposition of  
29 such property.

30 (B) If the fair market value of property referred  
31 to in paragraph (1) was not readily ascertainable on  
32 August 1, 1969, the pre-August 1, 1969 appreciation  
33 amount for such property is that amount which bears the  
34 same ratio to the total gain reported in respect of the  
35 property for federal income tax purposes for the  
36 taxable year, as the number of full calendar months in

1           that part of the taxpayer's holding period for the  
2           property ending July 31, 1969 bears to the number of  
3           full calendar months in the taxpayer's entire holding  
4           period for the property.

5           (C)     The     Department     shall     prescribe     such  
6           regulations as may be necessary to carry out the  
7           purposes of this paragraph.

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

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

20          (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,  
21          eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;  
22          92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.  
23          7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

24          Section 997. Severability. The provisions of this Act are  
25          severable under Section 1.31 of the Statute on Statutes.

26          Section 999. Effective date. This Act takes effect July 1,  
27          2006.