

SB2296



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2296

Introduced 1/12/2006, by Sen. Don Harmon

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Makes a technical change in a Section concerning the definition of "base income".

LRB094 17844 BDD 53145 b

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Illinois Income Tax Act is amended by
5 changing Section 203 as follows:

6 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

27 (C) An amount equal to the amount received during
28 the taxable year as a recovery or refund of real
29 property taxes paid with respect to the taxpayer's
30 principal residence under the Revenue Act of 1939 and
31 for which a deduction was previously taken under
32 subparagraph (L) of this paragraph (2) prior to July 1,

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

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

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13 withdrawn by the taxpayer in the taxable year from a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

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

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

30 (D-16) If the taxpayer reports a capital gain or
31 loss on the taxpayer's federal income tax return for
32 the taxable year based on a sale or transfer of
33 property for which the taxpayer was required in any
34 taxable year to make an addition modification under
35 subparagraph (D-15), then an amount equal to the
36 aggregate amount of the deductions taken in all taxable

1 years under subparagraph (Z) with respect to that
2 property.

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

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

25 This paragraph shall not apply to the following:

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

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

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

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

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

18 (iv) an item of interest paid, accrued, or
19 incurred, directly or indirectly, to 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 (D-18) For taxable years ending on or after
36 December 31, 2004, an amount equal to the amount of

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

1 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or
27 indirectly, from a transaction with a foreign
28 person if the taxpayer establishes by clear and
29 convincing evidence, that the adjustments are
30 unreasonable; or if the taxpayer and the Director
31 agree in writing to the application or use of an
32 alternative method of apportionment under Section
33 304(f);

34 Nothing in this subsection shall preclude the
35 Director from making any other adjustment
36 otherwise allowed under Section 404 of this Act for

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

7 (D-20) For taxable years beginning on or after
8 January 1, 2002, in the case of a distribution from a
9 qualified tuition program under Section 529 of the
10 Internal Revenue Code, other than (i) a distribution
11 from a College Savings Pool created under Section 16.5
12 of the State Treasurer Act or (ii) a distribution from
13 the Illinois Prepaid Tuition Trust Fund, an amount
14 equal to the amount excluded from gross income under
15 Section 529(c)(3)(B);

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

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

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

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

20 (G) The valuation limitation amount;

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

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

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

35 (K) An amount equal to those dividends included in
36 such total that were paid by a corporation that

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

8 (L) For taxable years ending after December 31,
9 1983, an amount equal to all social security benefits
10 and railroad retirement benefits included in such
11 total pursuant to Sections 72(r) and 86 of the Internal
12 Revenue Code;

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

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

35 (O) An amount equal to any contribution made to a
36 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

35 (V) Beginning with tax years ending on or after
36 December 31, 1995 and ending with tax years ending on

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

26 (W) For taxable years beginning on or after January
27 1, 1998, all amounts included in the taxpayer's federal
28 gross income in the taxable year from amounts converted
29 from a regular IRA to a Roth IRA. This paragraph is
30 exempt from the provisions of Section 250;

31 (X) For taxable year 1999 and thereafter, an amount
32 equal to the amount of any (i) distributions, to the
33 extent includible in gross income for federal income
34 tax purposes, made to the taxpayer because of his or
35 her status as a victim of persecution for racial or
36 religious reasons by Nazi Germany or any other Axis

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

28 (Y) For taxable years beginning on or after January
29 1, 2002 and ending on or before December 31, 2004,
30 moneys contributed in the taxable year to a College
31 Savings Pool account under Section 16.5 of the State
32 Treasurer Act, except that amounts excluded from gross
33 income under Section 529(c)(3)(C)(i) of the Internal
34 Revenue Code shall not be considered moneys
35 contributed under this subparagraph (Y). For taxable
36 years beginning on or after January 1, 2005, a maximum

1 of \$10,000 contributed in the taxable year to (i) a
2 College Savings Pool account under Section 16.5 of the
3 State Treasurer Act or (ii) the Illinois Prepaid
4 Tuition Trust Fund, except that amounts excluded from
5 gross income under Section 529(c)(3)(C)(i) of the
6 Internal Revenue Code shall not be considered moneys
7 contributed under this subparagraph (Y). This
8 subparagraph (Y) is exempt from the provisions of
9 Section 250;

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

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

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

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

34 (AA) If the taxpayer reports a capital gain or loss
35 on the taxpayer's federal income tax return for the
36 taxable year based on a sale or transfer of property

1 for which the taxpayer was required in any taxable year
2 to make an addition modification under subparagraph
3 (D-15), then an amount equal to that addition
4 modification.

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

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

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

27 (DD) An amount equal to the interest income taken
28 into account for the taxable year (net of the
29 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-17) for

1 interest paid, accrued, or incurred, directly or
2 indirectly, to the same foreign person; and

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

16 (b) Corporations.

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

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

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

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

31 (C) In the case of a regulated investment company,
32 an amount equal to the excess of (i) the net long-term
33 capital gain for the taxable year, over (ii) the amount
34 of the capital gain dividends designated as such in
35 accordance with Section 852(b)(3)(C) of the Internal

1 Revenue Code and any amount designated under Section
2 852(b)(3)(D) of the Internal Revenue Code,
3 attributable to the taxable year (this amendatory Act
4 of 1995 (Public Act 89-89) is declarative of existing
5 law and is not a new enactment);

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

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

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

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

33 For taxable years in which there is a net operating
34 loss carryback or carryforward from more than one other
35 taxable year ending prior to December 31, 1986, the
36 addition modification provided in this subparagraph

1 (E) shall be the sum of the amounts computed
2 independently under the preceding provisions of this
3 subparagraph (E) for each such taxable year;

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

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

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

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

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

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

11 This paragraph shall not apply to the following:

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

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

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

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

34 (iii) the taxpayer can establish, based on
35 clear and convincing evidence, that the interest
36 paid, accrued, or incurred relates to a contract or

1 agreement entered into at arm's-length rates and
2 terms and the principal purpose for the payment is
3 not federal or Illinois tax avoidance; or

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

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

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

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

23 This paragraph shall not apply to the following:

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

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

36 (a) the foreign person during the same

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

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

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

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

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

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

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

36 (H) In the case of a regulated investment company,

1 an amount equal to the amount of exempt interest
2 dividends as defined in subsection (b) (5) of Section
3 852 of the Internal Revenue Code, paid to shareholders
4 for the taxable year;

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

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

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

34 (L) An amount equal to those dividends included in
35 such total that were paid by a corporation that
36 conducts business operations in a federally designated

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

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

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

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

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

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

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

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

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

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

34 (S) For taxable years ending on or after December
35 31, 1997, in the case of a Subchapter S corporation, an
36 amount equal to all amounts of income allocable to a

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (c) Trusts and estates.

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

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

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

27 (B) In the case of (i) an estate, \$600; (ii) a
28 trust which, under its governing instrument, is
29 required to distribute all of its income currently,
30 \$300; and (iii) any other trust, \$100, but in each such
31 case, only to the extent such amount was deducted in
32 the computation of taxable income;

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

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

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

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

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

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

35 (F) For taxable years ending on or after January 1,
36 1989, an amount equal to the tax deducted pursuant to

1 Section 164 of the Internal Revenue Code if the trust
2 or estate is claiming the same tax for purposes of the
3 Illinois foreign tax credit under Section 601 of this
4 Act;

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

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

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

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

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

32 (G-12) For taxable years ending on or after
33 December 31, 2004, an amount equal to the amount
34 otherwise allowed as a deduction in computing base
35 income for interest paid, accrued, or incurred,
36 directly or indirectly, to a foreign person who would

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

16 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

28 This paragraph shall not apply to the following:

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

36 (ii) any item of intangible expense or cost

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

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

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

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

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

34 and by deducting from the total so obtained the sum of the
35 following amounts:

36 (H) An amount equal to all amounts included in such

1 total pursuant to the provisions of Sections 402(a),
2 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
3 Internal Revenue Code or included in such total as
4 distributions under the provisions of any retirement
5 or disability plan for employees of any governmental
6 agency or unit, or retirement payments to retired
7 partners, which payments are excluded in computing net
8 earnings from self employment by Section 1402 of the
9 Internal Revenue Code and regulations adopted pursuant
10 thereto;

11 (I) The valuation limitation amount;

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

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

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

1 subparagraph are exempt from the provisions of Section
2 250;

3 (M) An amount equal to those dividends included in
4 such total which were paid by a corporation which
5 conducts business operations in an Enterprise Zone or
6 zones created under the Illinois Enterprise Zone Act
7 and conducts substantially all of its operations in an
8 Enterprise Zone or Zones;

9 (N) An amount equal to any contribution made to a
10 job training project established pursuant to the Tax
11 Increment Allocation Redevelopment Act;

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

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

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

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

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

30 (1) "y" equals the amount of the depreciation
31 deduction taken for the taxable year on the
32 taxpayer's federal income tax return on property
33 for which the bonus depreciation deduction (30% of
34 the adjusted basis of the qualified property) was
35 taken in any year under subsection (k) of Section
36 168 of the Internal Revenue Code, but not including

1 the bonus depreciation deduction; and

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

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

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

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

21 (T) The amount of (i) any interest income (net of
22 the deductions allocable thereto) taken into account
23 for the taxable year with respect to a transaction with
24 a taxpayer that is required to make an addition
25 modification with respect to such transaction under
26 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
27 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
28 the amount of such addition modification and (ii) any
29 income from intangible property (net of the deductions
30 allocable thereto) taken into account for the taxable
31 year with respect to a transaction with a taxpayer that
32 is required to make an addition modification with
33 respect to such transaction under Section
34 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
35 203(d)(2)(D-8), but not to exceed the amount of such
36 addition modification;

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

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

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

33 (d) Partnerships.

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

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

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

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

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

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

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

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

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

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

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

20 This paragraph shall not apply to the following:

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

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

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

36 (b) the transaction giving rise to the

1 interest expense between the taxpayer and the
2 foreign person did not have as a principal
3 purpose the avoidance of Illinois income tax,
4 and is paid pursuant to a contract or agreement
5 that reflects an arm's-length interest rate
6 and terms; or

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

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

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

30 (D-8) For taxable years ending on or after December
31, 2004, an amount equal to the amount of intangible
32 expenses and costs otherwise allowed as a deduction in
33 computing base income, and that were paid, accrued, or
34 incurred, directly or indirectly, to a foreign person
35 who would be a member of the same unitary business
36 group but for the fact that the foreign person's

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

32 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

1 under Section 404 of this Act;
2 and by deducting from the total so obtained the following
3 amounts:

4 (E) The valuation limitation amount;

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

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

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

24 (I) An amount equal to all amounts of income
25 distributable to an entity subject to the Personal
26 Property Tax Replacement Income Tax imposed by
27 subsections (c) and (d) of Section 201 of this Act
28 including amounts distributable to organizations
29 exempt from federal income tax by reason of Section
30 501(a) of the Internal Revenue Code;

31 (J) With the exception of any amounts subtracted
32 under subparagraph (G), an amount equal to the sum of
33 all amounts disallowed as deductions by (i) Sections
34 171(a) (2), and 265(2) of the Internal Revenue Code of
35 1954, as now or hereafter amended, and all amounts of
36 expenses allocable to interest and disallowed as

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

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

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

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

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

32 (O) For taxable years 2001 and thereafter, for the
33 taxable year in which the bonus depreciation deduction
34 (30% of the adjusted basis of the qualified property)
35 is taken on the taxpayer's federal income tax return
36 under subsection (k) of Section 168 of the Internal

1 Revenue Code and for each applicable taxable year
2 thereafter, an amount equal to "x", where:

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

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

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

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

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

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

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

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

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

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

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

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

36 (A) Certain life insurance companies. In the case

1 of a life insurance company subject to the tax imposed
2 by Section 801 of the Internal Revenue Code, life
3 insurance company taxable income, plus the amount of
4 distribution from pre-1984 policyholder surplus
5 accounts as calculated under Section 815a of the
6 Internal Revenue Code;

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

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

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

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

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

36 (G) Subchapter S corporations. In the case of: (i)

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

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

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

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

4 (f) Valuation limitation amount.

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

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

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

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

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

33 (B) If the fair market value of property referred
34 to in paragraph (1) was not readily ascertainable on
35 August 1, 1969, the pre-August 1, 1969 appreciation
36 amount for such property is that amount which bears the

1 same ratio to the total gain reported in respect of the
2 property for federal income tax purposes for the
3 taxable year, as the number of full calendar months in
4 that part of the taxpayer's holding period for the
5 property ending July 31, 1969 bears to the number of
6 full calendar months in the taxpayer's entire holding
7 period for the property.

8 (C) The Department shall prescribe such
9 regulations as may be necessary to carry out the
10 purposes of this paragraph.

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

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

23 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
24 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
25 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
26 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)