



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0452

Introduced 2/4/2009, by Rep. LaShawn K. Ford

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Provides that individual taxpayers are entitled to a deduction for (i) work-related mass transit expenses and (ii) school-related mass transit expenses for the taxpayer's minor children. Provides that neither deduction may exceed \$500 per year.

LRB096 03511 HLH 13536 b

FISCAL NOTE ACT  
MAY APPLY

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 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

1           this Act to the extent deducted from gross income in  
2           the computation of adjusted gross income for the  
3           taxable year;

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

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

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22          withdrawn by the taxpayer in the taxable year from a  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

1 20 of the Medical Care Savings Account Act of 2000;

2 (D-10) For taxable years ending after December 31,  
3 1997, an amount equal to any eligible remediation costs  
4 that the individual deducted in computing adjusted  
5 gross income and for which the individual claims a  
6 credit under subsection (l) of Section 201;

7 (D-15) For taxable years 2001 and thereafter, an  
8 amount equal to the bonus depreciation deduction taken  
9 on the taxpayer's federal income tax return for the  
10 taxable year under subsection (k) of Section 168 of the  
11 Internal Revenue Code;

12 (D-16) If the taxpayer sells, transfers, abandons,  
13 or otherwise disposes of property for which the  
14 taxpayer was required in any taxable year to make an  
15 addition modification under subparagraph (D-15), then  
16 an amount equal to the aggregate amount of the  
17 deductions taken in all taxable years under  
18 subparagraph (Z) with respect to that property.

19 If the taxpayer continues to own property through  
20 the last day of the last tax year for which the  
21 taxpayer may claim a depreciation deduction for  
22 federal income tax purposes and for which the taxpayer  
23 was allowed in any taxable year to make a subtraction  
24 modification under subparagraph (Z), then an amount  
25 equal to that subtraction modification.

26 The taxpayer is required to make the addition

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

3 (D-17) An amount equal to the amount otherwise  
4 allowed as a deduction in computing base income for  
5 interest paid, accrued, or incurred, directly or  
6 indirectly, (i) for taxable years ending on or after  
7 December 31, 2004, to a foreign person who would be a  
8 member of the same unitary business group but for the  
9 fact that foreign person's business activity outside  
10 the United States is 80% or more of the foreign  
11 person's total business activity and (ii) for taxable  
12 years ending on or after December 31, 2008, to a person  
13 who would be a member of the same unitary business  
14 group but for the fact that the person is prohibited  
15 under Section 1501(a)(27) from being included in the  
16 unitary business group because he or she is ordinarily  
17 required to apportion business income under different  
18 subsections of Section 304. The addition modification  
19 required by this subparagraph shall be reduced to the  
20 extent that dividends were included in base income of  
21 the unitary group for the same taxable year and  
22 received by the taxpayer or by a member of the  
23 taxpayer's unitary business group (including amounts  
24 included in gross income under Sections 951 through 964  
25 of the Internal Revenue Code and amounts included in  
26 gross income under Section 78 of the Internal Revenue

1 Code) with respect to the stock of the same person to  
2 whom the interest was paid, accrued, or incurred.

3 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) the taxpayer can establish, based on  
26 clear and convincing evidence, that the interest

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

5           (iv) an item of interest paid, accrued, or  
6           incurred, directly or indirectly, to a person if  
7           the taxpayer establishes by clear and convincing  
8           evidence that the adjustments are unreasonable; or  
9           if the taxpayer and the Director agree in writing  
10          to the application or use of an alternative method  
11          of apportionment under Section 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          (D-18) An amount equal to the amount of intangible  
22          expenses and costs otherwise allowed as a deduction in  
23          computing base income, and that were paid, accrued, or  
24          incurred, directly or indirectly, (i) for taxable  
25          years ending on or after December 31, 2004, to a  
26          foreign person who would be a member of the same

1 unitary business group but for the fact that the  
2 foreign person's business activity outside the United  
3 States is 80% or more of that person's total business  
4 activity and (ii) for taxable years ending on or after  
5 December 31, 2008, to a person who would be a member of  
6 the same unitary business group but for the fact that  
7 the person is prohibited under Section 1501(a)(27)  
8 from being included in the unitary business group  
9 because he or she is ordinarily required to apportion  
10 business income under different subsections of Section  
11 304. The addition modification required by this  
12 subparagraph shall be reduced to the extent that  
13 dividends were included in base income of the unitary  
14 group for the same taxable year and received by the  
15 taxpayer or by a member of the taxpayer's unitary  
16 business group (including amounts included in gross  
17 income under Sections 951 through 964 of the Internal  
18 Revenue Code and amounts included in gross income under  
19 Section 78 of the Internal Revenue Code) with respect  
20 to the stock of the same person to whom the intangible  
21 expenses and costs were directly or indirectly paid,  
22 incurred, or accrued. The preceding sentence does not  
23 apply to the extent that the same dividends caused a  
24 reduction to the addition modification required under  
25 Section 203(a)(2)(D-17) of this Act. As used in this  
26 subparagraph, the term "intangible expenses and costs"



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

14 This paragraph shall not apply to the following:

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

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

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

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

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

1           by which the Department will utilize its authority  
2           under Section 404 of this Act;

3           (D-19) For taxable years ending on or after  
4           December 31, 2008, an amount equal to the amount of  
5           insurance premium expenses and costs otherwise allowed  
6           as a deduction in computing base income, and that were  
7           paid, accrued, or incurred, directly or indirectly, to  
8           a person who would be a member of the same unitary  
9           business group but for the fact that the person is  
10          prohibited under Section 1501(a)(27) from being  
11          included in the unitary business group because he or  
12          she is ordinarily required to apportion business  
13          income under different subsections of Section 304. The  
14          addition modification required by this subparagraph  
15          shall be reduced to the extent that dividends were  
16          included in base income of the unitary group for the  
17          same taxable year and received by the taxpayer or by a  
18          member of the taxpayer's unitary business group  
19          (including amounts included in gross income under  
20          Sections 951 through 964 of the Internal Revenue Code  
21          and amounts included in gross income under Section 78  
22          of the Internal Revenue Code) with respect to the stock  
23          of the same person to whom the premiums and costs were  
24          directly or indirectly paid, incurred, or accrued. The  
25          preceding sentence does not apply to the extent that  
26          the same dividends caused a reduction to the addition

1 modification required under Section 203(a)(2)(D-17) or  
2 Section 203(a)(2)(D-18) of this Act.

3 (D-20) For taxable years beginning on or after  
4 January 1, 2002 and ending on or before December 31,  
5 2006, in the case of a distribution from a qualified  
6 tuition program under Section 529 of the Internal  
7 Revenue Code, other than (i) a distribution from a  
8 College Savings Pool created under Section 16.5 of the  
9 State Treasurer Act or (ii) a distribution from the  
10 Illinois Prepaid Tuition Trust Fund, an amount equal to  
11 the amount excluded from gross income under Section  
12 529(c)(3)(B). For taxable years beginning on or after  
13 January 1, 2007, in the case of a distribution from a  
14 qualified tuition program under Section 529 of the  
15 Internal Revenue Code, other than (i) a distribution  
16 from a College Savings Pool created under Section 16.5  
17 of the State Treasurer Act, (ii) a distribution from  
18 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
19 distribution from a qualified tuition program under  
20 Section 529 of the Internal Revenue Code that (I)  
21 adopts and determines that its offering materials  
22 comply with the College Savings Plans Network's  
23 disclosure principles and (II) has made reasonable  
24 efforts to inform in-state residents of the existence  
25 of in-state qualified tuition programs by informing  
26 Illinois residents directly and, where applicable, to

1 inform financial intermediaries distributing the  
2 program to inform in-state residents of the existence  
3 of in-state qualified tuition programs at least  
4 annually, an amount equal to the amount excluded from  
5 gross income under Section 529(c)(3)(B).

6 For the purposes of this subparagraph (D-20), a  
7 qualified tuition program has made reasonable efforts  
8 if it makes disclosures (which may use the term  
9 "in-state program" or "in-state plan" and need not  
10 specifically refer to Illinois or its qualified  
11 programs by name) (i) directly to prospective  
12 participants in its offering materials or makes a  
13 public disclosure, such as a website posting; and (ii)  
14 where applicable, to intermediaries selling the  
15 out-of-state program in the same manner that the  
16 out-of-state program distributes its offering  
17 materials;

18 (D-21) For taxable years beginning on or after  
19 January 1, 2007, in the case of transfer of moneys from  
20 a qualified tuition program under Section 529 of the  
21 Internal Revenue Code that is administered by the State  
22 to an out-of-state program, an amount equal to the  
23 amount of moneys previously deducted from base income  
24 under subsection (a)(2)(Y) of this Section.

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

1 (E) For taxable years ending before December 31,  
2 2001, any amount included in such total in respect of  
3 any compensation (including but not limited to any  
4 compensation paid or accrued to a serviceman while a  
5 prisoner of war or missing in action) paid to a  
6 resident by reason of being on active duty in the Armed  
7 Forces of the United States and in respect of any  
8 compensation paid or accrued to a resident who as a  
9 governmental employee was a prisoner of war or missing  
10 in action, and in respect of any compensation paid to a  
11 resident in 1971 or thereafter for annual training  
12 performed pursuant to Sections 502 and 503, Title 32,  
13 United States Code as a member of the Illinois National  
14 Guard or, beginning with taxable years ending on or  
15 after December 31, 2007, the National Guard of any  
16 other state. For taxable years ending on or after  
17 December 31, 2001, any amount included in such total in  
18 respect of any compensation (including but not limited  
19 to any compensation paid or accrued to a serviceman  
20 while a prisoner of war or missing in action) paid to a  
21 resident by reason of being a member of any component  
22 of the Armed Forces of the United States and in respect  
23 of any compensation paid or accrued to a resident who  
24 as a governmental employee was a prisoner of war or  
25 missing in action, and in respect of any compensation  
26 paid to a resident in 2001 or thereafter by reason of

1 being a member of the Illinois National Guard or,  
2 beginning with taxable years ending on or after  
3 December 31, 2007, the National Guard of any other  
4 state. The provisions of this amendatory Act of the  
5 92nd General Assembly are exempt from the provisions of  
6 Section 250;

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

18 (G) The valuation limitation amount;

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

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

1           (J) An amount equal to those dividends included in  
2 such total which were paid by a corporation which  
3 conducts business operations in an Enterprise Zone or  
4 zones created under the Illinois Enterprise Zone Act or  
5 a River Edge Redevelopment Zone or zones created under  
6 the River Edge Redevelopment Zone Act, and conducts  
7 substantially all of its operations in an Enterprise  
8 Zone or zones or a River Edge Redevelopment Zone or  
9 zones. This subparagraph (J) is exempt from the  
10 provisions of Section 250;

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

20           (L) For taxable years ending after December 31,  
21 1983, an amount equal to all social security benefits  
22 and railroad retirement benefits included in such  
23 total pursuant to Sections 72(r) and 86 of the Internal  
24 Revenue Code;

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



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

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

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

24 (P) An amount equal to the amount of the deduction  
25 used to compute the federal income tax credit for  
26 restoration of substantial amounts held under claim of

1 right for the taxable year pursuant to Section 1341 of  
2 the Internal Revenue Code of 1986;

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

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

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

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

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

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

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

1 long-term care insurance premiums paid by the taxpayer  
2 times a number that represents the fractional  
3 percentage of eligible medical expenses under Section  
4 213 of the Internal Revenue Code of 1986 not actually  
5 deducted on the taxpayer's federal income tax return;

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

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

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

18 (Y) For taxable years beginning on or after January  
19 1, 2002 and ending on or before December 31, 2004,  
20 moneys contributed in the taxable year to a College  
21 Savings Pool account under Section 16.5 of the State  
22 Treasurer Act, except that amounts excluded from gross  
23 income under Section 529(c)(3)(C)(i) of the Internal  
24 Revenue Code shall not be considered moneys  
25 contributed under this subparagraph (Y). For taxable  
26 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 is taken on the taxpayer's federal income tax return  
13 under subsection (k) of Section 168 of the Internal  
14 Revenue Code and for each applicable taxable year  
15 thereafter, an amount equal to "x", where:

16 (1) "y" equals the amount of the depreciation  
17 deduction taken for the taxable year on the  
18 taxpayer's federal income tax return on property  
19 for which the bonus depreciation deduction 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;

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

1                   (3) for taxable years ending after December  
2                   31, 2005:

3                   (i) for property on which a bonus  
4                   depreciation deduction of 30% of the adjusted  
5                   basis was taken, "x" equals "y" multiplied by  
6                   30 and then divided by 70 (or "y" multiplied by  
7                   0.429); and

8                   (ii) for property on which a bonus  
9                   depreciation deduction of 50% of the adjusted  
10                  basis was taken, "x" equals "y" multiplied by  
11                  1.0.

12                  The aggregate amount deducted under this  
13                  subparagraph in all taxable years for any one piece of  
14                  property may not exceed the amount of the bonus  
15                  depreciation deduction taken on that property on the  
16                  taxpayer's federal income tax return under subsection  
17                  (k) of Section 168 of the Internal Revenue Code. This  
18                  subparagraph (Z) is exempt from the provisions of  
19                  Section 250;

20                  (AA) If the taxpayer sells, transfers, abandons,  
21                  or otherwise disposes of property for which the  
22                  taxpayer was required in any taxable year to make an  
23                  addition modification under subparagraph (D-15), then  
24                  an amount equal to that addition modification.

25                  If the taxpayer continues to own property through  
26                  the last day of the last tax year for which the

1 taxpayer may claim a depreciation deduction for  
2 federal income tax purposes and for which the taxpayer  
3 was required in any taxable year to make an addition  
4 modification under subparagraph (D-15), then an amount  
5 equal to that addition modification.

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

9 This subparagraph (AA) is exempt from the  
10 provisions of Section 250;

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

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



1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
2 203(d)(2)(D-8), but not to exceed the amount of that  
3 addition modification. This subparagraph (CC) is  
4 exempt from the provisions of Section 250;

5 (DD) An amount equal to the interest income taken  
6 into account for the taxable year (net of the  
7 deductions allocable thereto) with respect to  
8 transactions with (i) a foreign person who would be a  
9 member of the taxpayer's unitary business group but for  
10 the fact that the foreign person's business activity  
11 outside the United States is 80% or more of that  
12 person's total business activity and (ii) for taxable  
13 years ending on or after December 31, 2008, to a person  
14 who would be a member of the same unitary business  
15 group but for the fact that the person is prohibited  
16 under Section 1501(a)(27) from being included in the  
17 unitary business group because he or she is ordinarily  
18 required to apportion business income under different  
19 subsections of Section 304, but not to exceed the  
20 addition modification required to be made for the same  
21 taxable year under Section 203(a)(2)(D-17) for  
22 interest paid, accrued, or incurred, directly or  
23 indirectly, to the same person. This subparagraph (DD)  
24 is exempt from the provisions of Section 250; ~~and~~

25 (EE) An amount equal to the income from intangible  
26 property taken into account for the taxable year (net

1 of the deductions allocable thereto) with respect to  
2 transactions with (i) a foreign person who would be a  
3 member of the taxpayer's unitary business group but for  
4 the fact that the foreign person's business activity  
5 outside the United States is 80% or more of that  
6 person's total business activity and (ii) for taxable  
7 years ending on or after December 31, 2008, to a person  
8 who would be a member of the same unitary business  
9 group but for the fact that the person is prohibited  
10 under Section 1501(a)(27) from being included in the  
11 unitary business group because he or she is ordinarily  
12 required to apportion business income under different  
13 subsections of Section 304, but not to exceed the  
14 addition modification required to be made for the same  
15 taxable year under Section 203(a)(2)(D-18) for  
16 intangible expenses and costs paid, accrued, or  
17 incurred, directly or indirectly, to the same foreign  
18 person. This subparagraph (EE) is exempt from the  
19 provisions of Section 250; -

20 (FF) For taxable years beginning on or after  
21 January 1, 2009, an amount equal to the taxpayer's  
22 work-related mass transit expenses during the taxable  
23 year, not to exceed \$500 per year. This subparagraph  
24 (FF) is exempt from the provisions of Section 250; and

25 (GG) For taxable years beginning on or after  
26 January 1, 2009, an amount equal to the school-related

1       mass transit expenses for that taxable year for any  
2       minor child who is claimed as a dependent on the  
3       taxpayer's federal income tax return under the  
4       Internal Revenue Code of 1986, not to exceed \$500 per  
5       year. This subparagraph (GG) is exempt from the  
6       provisions of Section 250.

7       (b) Corporations.

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

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

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

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

22           (C) In the case of a regulated investment company,  
23      an amount equal to the excess of (i) the net long-term  
24      capital gain for the taxable year, over (ii) the amount  
25      of the capital gain dividends designated as such in

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

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

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

21 (i) the addition modification relating to the  
22 net operating loss carried back or forward to the  
23 taxable year from any taxable year ending prior to  
24 December 31, 1986 shall be reduced by the amount of  
25 addition modification under this subparagraph (E)  
26 which related to that net operating loss and which

1           was taken into account in calculating the base  
2           income of an earlier taxable year, and

3                   (ii) the addition modification relating to the  
4           net operating loss carried back or forward to the  
5           taxable year from any taxable year ending prior to  
6           December 31, 1986 shall not exceed the amount of  
7           such carryback or carryforward;

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

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

20                  (E-10) For taxable years 2001 and thereafter, an  
21          amount equal to the bonus depreciation deduction 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                  (E-11) If the taxpayer sells, transfers, abandons,  
26          or otherwise disposes of property for which the

1 taxpayer was required in any taxable year to make an  
2 addition modification under subparagraph (E-10), then  
3 an amount equal to the aggregate amount of the  
4 deductions taken in all taxable years under  
5 subparagraph (T) with respect to that property.

6 If the taxpayer continues to own property through  
7 the last day of the last tax year for which the  
8 taxpayer may claim a depreciation deduction for  
9 federal income tax purposes and for which the taxpayer  
10 was allowed in any taxable year to make a subtraction  
11 modification under subparagraph (T), then an amount  
12 equal to that subtraction modification.

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

16 (E-12) An amount equal to the amount otherwise  
17 allowed as a deduction in computing base income for  
18 interest paid, accrued, or incurred, directly or  
19 indirectly, (i) for taxable years ending on or after  
20 December 31, 2004, to a foreign person who would be a  
21 member of the same unitary business group but for the  
22 fact the foreign person's business activity outside  
23 the United States is 80% or more of the foreign  
24 person's total business activity and (ii) for taxable  
25 years ending on or after December 31, 2008, to a person  
26 who would be a member of the same unitary business

1 group but for the fact that the person is prohibited  
2 under Section 1501(a)(27) from being included in the  
3 unitary business group because he or she is ordinarily  
4 required to apportion business income under different  
5 subsections of Section 304. The addition modification  
6 required by this subparagraph shall be reduced to the  
7 extent that dividends were included in base income of  
8 the unitary group for the same taxable year and  
9 received by the taxpayer or by a member of the  
10 taxpayer's unitary business group (including amounts  
11 included in gross income pursuant to Sections 951  
12 through 964 of the Internal Revenue Code and amounts  
13 included in gross income under Section 78 of the  
14 Internal Revenue Code) with respect to the stock of the  
15 same person to whom the interest was paid, accrued, or  
16 incurred.

17 This paragraph shall not apply to the following:

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

24 (ii) an item of interest paid, accrued, or  
25 incurred, directly or indirectly, to a person if  
26 the taxpayer can establish, based on a

1 preponderance of the evidence, both of the  
2 following:

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

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

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

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

26 Nothing in this subsection shall preclude the



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

9 (E-13) An amount equal to the amount of intangible  
10 expenses and costs otherwise allowed as a deduction in  
11 computing base income, and that were paid, accrued, or  
12 incurred, directly or indirectly, (i) for taxable  
13 years ending on or after December 31, 2004, to a  
14 foreign person who would be a member of the same  
15 unitary business group but for the fact that the  
16 foreign person's business activity outside the United  
17 States is 80% or more of that person's total business  
18 activity and (ii) for taxable years ending on or after  
19 December 31, 2008, to a person who would be a member of  
20 the same unitary business group but for the fact that  
21 the person is prohibited under Section 1501(a)(27)  
22 from being included in the unitary business group  
23 because he or she is ordinarily required to apportion  
24 business income under different subsections of Section  
25 304. The addition modification required by this  
26 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(b)(2)(E-12) of  
14 this Act. As used in this subparagraph, the term  
15 "intangible expenses and costs" includes (1) expenses,  
16 losses, and costs for, or related to, the direct or  
17 indirect acquisition, use, maintenance or management,  
18 ownership, sale, exchange, or any other disposition of  
19 intangible property; (2) losses incurred, directly or  
20 indirectly, from factoring transactions or discounting  
21 transactions; (3) royalty, patent, technical, and  
22 copyright fees; (4) licensing fees; and (5) other  
23 similar expenses and costs. For purposes of this  
24 subparagraph, "intangible property" includes patents,  
25 patent applications, trade names, trademarks, service  
26 marks, copyrights, mask works, trade secrets, and

1 similar types of intangible assets.

2 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) any item of intangible expense or cost

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

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

17          (E-14) For taxable years ending on or after  
18          December 31, 2008, an amount equal to the amount of  
19          insurance premium expenses and costs otherwise allowed  
20          as a deduction in computing base income, and that were  
21          paid, accrued, or incurred, directly or indirectly, to  
22          a person who would be a member of the same unitary  
23          business group but for the fact that the person is  
24          prohibited under Section 1501(a)(27) from being  
25          included in the unitary business group because he or  
26          she is ordinarily required to apportion business

1 income under different subsections of Section 304. The  
2 addition modification required by this subparagraph  
3 shall be reduced to the extent that dividends were  
4 included in base income of the unitary group for the  
5 same taxable year and received by the taxpayer or by a  
6 member of the taxpayer's unitary business group  
7 (including amounts included in gross income under  
8 Sections 951 through 964 of the Internal Revenue Code  
9 and amounts included in gross income under Section 78  
10 of the Internal Revenue Code) with respect to the stock  
11 of the same person to whom the premiums and costs were  
12 directly or indirectly paid, incurred, or accrued. The  
13 preceding sentence does not apply to the extent that  
14 the same dividends caused a reduction to the addition  
15 modification required under Section 203(b) (2) (E-12) or  
16 Section 203(b) (2) (E-13) of this Act;

17 (E-15) For taxable years beginning after December  
18 31, 2008, any deduction for dividends paid by a captive  
19 real estate investment trust that is allowed to a real  
20 estate investment trust under Section 857(b) (2) (B) of  
21 the Internal Revenue Code for dividends paid;

22 and by deducting from the total so obtained the sum of the  
23 following amounts:

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

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

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

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

22 (J) An amount equal to all amounts included in such  
23 total which are exempt from taxation by this State  
24 either by reason of its statutes or Constitution or by  
25 reason of the Constitution, treaties or statutes of the  
26 United States; provided that, in the case of any

1 statute of this State that exempts income derived from  
2 bonds or other obligations from the tax imposed under  
3 this Act, the amount exempted shall be the interest net  
4 of bond premium amortization;

5 (K) An amount equal to those dividends included in  
6 such total which were paid by a corporation which  
7 conducts business operations in an Enterprise Zone or  
8 zones created under the Illinois Enterprise Zone Act or  
9 a River Edge Redevelopment Zone or zones created under  
10 the River Edge Redevelopment Zone Act and conducts  
11 substantially all of its operations in an Enterprise  
12 Zone or zones or a River Edge Redevelopment Zone or  
13 zones. This subparagraph (K) is exempt from the  
14 provisions of Section 250;

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

24 (M) For any taxpayer that is a financial  
25 organization within the meaning of Section 304(c) of  
26 this Act, an amount included in such total as interest

1 income from a loan or loans made by such taxpayer to a  
2 borrower, to the extent that such a loan is secured by  
3 property which is eligible for the Enterprise Zone  
4 Investment Credit or the River Edge Redevelopment Zone  
5 Investment Credit. To determine the portion of a loan  
6 or loans that is secured by property eligible for a  
7 Section 201(f) investment credit to the borrower, the  
8 entire principal amount of the loan or loans between  
9 the taxpayer and the borrower should be divided into  
10 the basis of the Section 201(f) investment credit  
11 property which secures the loan or loans, using for  
12 this purpose the original basis of such property on the  
13 date that it was placed in service in the Enterprise  
14 Zone or the River Edge Redevelopment Zone. The  
15 subtraction modification available to taxpayer in any  
16 year under this subsection shall be that portion of the  
17 total interest paid by the borrower with respect to  
18 such loan attributable to the eligible property as  
19 calculated under the previous sentence. This  
20 subparagraph (M) is exempt from the provisions of  
21 Section 250;

22 (M-1) For any taxpayer that is a financial  
23 organization within the meaning of Section 304(c) of  
24 this Act, an amount included in such total as interest  
25 income from a loan or loans made by such taxpayer to a  
26 borrower, to the extent that such a loan is secured by



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

21 (N) Two times any contribution made during the  
22 taxable year to a designated zone organization to the  
23 extent that the contribution (i) qualifies as a  
24 charitable contribution under subsection (c) of  
25 Section 170 of the Internal Revenue Code and (ii) must,  
26 by its terms, be used for a project approved by the

1 Department of Commerce and Economic Opportunity under  
2 Section 11 of the Illinois Enterprise Zone Act or under  
3 Section 10-10 of the River Edge Redevelopment Zone Act.  
4 This subparagraph (N) is exempt from the provisions of  
5 Section 250;

6 (O) An amount equal to: (i) 85% for taxable years  
7 ending on or before December 31, 1992, or, a percentage  
8 equal to the percentage allowable under Section  
9 243(a)(1) of the Internal Revenue Code of 1986 for  
10 taxable years ending after December 31, 1992, of the  
11 amount by which dividends included in taxable income  
12 and received from a corporation that is not created or  
13 organized under the laws of the United States or any  
14 state or political subdivision thereof, including, for  
15 taxable years ending on or after December 31, 1988,  
16 dividends received or deemed received or paid or deemed  
17 paid under Sections 951 through 964 of the Internal  
18 Revenue Code, exceed the amount of the modification  
19 provided under subparagraph (G) of paragraph (2) of  
20 this subsection (b) which is related to such dividends,  
21 and including, for taxable years ending on or after  
22 December 31, 2008, dividends received from a captive  
23 real estate investment trust; plus (ii) 100% of the  
24 amount by which dividends, included in taxable income  
25 and received, including, for taxable years ending on or  
26 after December 31, 1988, dividends received or deemed

1 received or paid or deemed paid under Sections 951  
2 through 964 of the Internal Revenue Code and including,  
3 for taxable years ending on or after December 31, 2008,  
4 dividends received from a captive real estate  
5 investment trust, from any such corporation specified  
6 in clause (i) that would but for the provisions of  
7 Section 1504 (b) (3) of the Internal Revenue Code be  
8 treated as a member of the affiliated group which  
9 includes the dividend recipient, exceed the amount of  
10 the modification provided under subparagraph (G) of  
11 paragraph (2) of this subsection (b) which is related  
12 to such dividends. This subparagraph (O) is exempt from  
13 the provisions of Section 250 of this Act;

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

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

22 (R) On and after July 20, 1999, in the case of an  
23 attorney-in-fact with respect to whom an interinsurer  
24 or a reciprocal insurer has made the election under  
25 Section 835 of the Internal Revenue Code, 26 U.S.C.  
26 835, an amount equal to the excess, if any, of the

1 amounts paid or incurred by that interinsurer or  
2 reciprocal insurer in the taxable year to the  
3 attorney-in-fact over the deduction allowed to that  
4 interinsurer or reciprocal insurer with respect to the  
5 attorney-in-fact under Section 835(b) of the Internal  
6 Revenue Code for the taxable year; the provisions of  
7 this subparagraph are exempt from the provisions of  
8 Section 250;

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

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

25 (1) "y" equals the amount of the depreciation  
26 deduction taken for the taxable year on the

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

6 (2) for taxable years ending on or before  
7 December 31, 2005, "x" equals "y" multiplied by 30  
8 and then divided by 70 (or "y" multiplied by  
9 0.429); and

10 (3) for taxable years ending after December  
11 31, 2005:

12 (i) for property on which a bonus  
13 depreciation deduction of 30% of the adjusted  
14 basis was taken, "x" equals "y" multiplied by  
15 30 and then divided by 70 (or "y" multiplied by  
16 0.429); and

17 (ii) for property on which a bonus  
18 depreciation deduction of 50% of the adjusted  
19 basis was taken, "x" equals "y" multiplied by  
20 1.0.

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

1           subparagraph (T) is exempt from the provisions of  
2           Section 250;

3           (U) If the taxpayer sells, transfers, abandons, or  
4           otherwise disposes of property for which the taxpayer  
5           was required in any taxable year to make an addition  
6           modification under subparagraph (E-10), then an amount  
7           equal to that addition modification.

8           If the taxpayer continues to own property through  
9           the last day of the last tax year for which the  
10          taxpayer may claim a depreciation deduction for  
11          federal income tax purposes and for which the taxpayer  
12          was required in any taxable year to make an addition  
13          modification under subparagraph (E-10), then an amount  
14          equal to that addition modification.

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

18          This subparagraph (U) is exempt from the  
19          provisions of Section 250;

20          (V) The amount of: (i) any interest income (net of  
21          the deductions allocable thereto) taken into account  
22          for the taxable year with respect to a transaction with  
23          a taxpayer that is required to make an addition  
24          modification with respect to such transaction under  
25          Section           203(a)(2)(D-17),           203(b)(2)(E-12),  
26          203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed

1 the amount of such addition modification, (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, and (iii) any insurance premium  
10 income (net of deductions allocable thereto) taken  
11 into account for the taxable year with respect to a  
12 transaction with a taxpayer that is required to make an  
13 addition modification with respect to such transaction  
14 under Section 203(a)(2)(D-19), Section  
15 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
16 203(d)(2)(D-9), but not to exceed the amount of that  
17 addition modification. This subparagraph (V) is exempt  
18 from the provisions of Section 250;

19 (W) An amount equal to the interest income taken  
20 into account for the taxable year (net of the  
21 deductions allocable thereto) with respect to  
22 transactions with (i) a foreign person who would be a  
23 member of the taxpayer's unitary business group but for  
24 the fact that the foreign person's business activity  
25 outside the United States is 80% or more of that  
26 person's total business activity and (ii) for taxable

1 years ending on or after December 31, 2008, to a person  
2 who would be a member of the same unitary business  
3 group but for the fact that the person is prohibited  
4 under Section 1501(a)(27) from being included in the  
5 unitary business group because he or she is ordinarily  
6 required to apportion business income under different  
7 subsections of Section 304, but not to exceed the  
8 addition modification required to be made for the same  
9 taxable year under Section 203(b)(2)(E-12) for  
10 interest paid, accrued, or incurred, directly or  
11 indirectly, to the same person. This subparagraph (W)  
12 is exempt from the provisions of Section 250; and

13 (X) An amount equal to the income from intangible  
14 property taken into account for the taxable year (net  
15 of the deductions allocable thereto) with respect to  
16 transactions with (i) 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 and (ii) for taxable  
21 years ending on or after December 31, 2008, to a person  
22 who would be a member of the same unitary business  
23 group but for the fact that the person is prohibited  
24 under Section 1501(a)(27) from being included in the  
25 unitary business group because he or she is ordinarily  
26 required to apportion business income under different



1 subsections of Section 304, but not to exceed the  
2 addition modification required to be made for the same  
3 taxable year under Section 203(b)(2)(E-13) for  
4 intangible expenses and costs paid, accrued, or  
5 incurred, directly or indirectly, to the same foreign  
6 person. This subparagraph (X) is exempt from the  
7 provisions of Section 250. ~~(Y)~~

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

12 (c) Trusts and estates.

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

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

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

24 (B) In the case of (i) an estate, \$600; (ii) a  
25 trust which, under its governing instrument, is

1 required to distribute all of its income currently,  
2 \$300; and (iii) any other trust, \$100, but in each such  
3 case, only to the extent such amount was deducted in  
4 the computation of taxable income;

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

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

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

22 (i) the addition modification relating to the  
23 net operating loss carried back or forward to the  
24 taxable year from any taxable year ending prior to  
25 December 31, 1986 shall be reduced by the amount of  
26 addition modification under this subparagraph (E)

1           which related to that net operating loss and which  
2           was taken into account in calculating the base  
3           income of an earlier taxable year, and

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

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

16                   (F) For taxable years ending on or after January 1,  
17          1989, an amount equal to the tax deducted pursuant to  
18          Section 164 of the Internal Revenue Code if the trust  
19          or estate is claiming the same tax for purposes of the  
20          Illinois foreign tax credit under Section 601 of this  
21          Act;

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

26                   (G-5) For taxable years ending after December 31,

1 1997, an amount equal to any eligible remediation costs  
2 that the trust or estate deducted in computing adjusted  
3 gross income and for which the trust or estate claims a  
4 credit under subsection (l) of Section 201;

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

10 (G-11) If the taxpayer sells, transfers, abandons,  
11 or otherwise disposes of property for which the  
12 taxpayer was required in any taxable year to make an  
13 addition modification under subparagraph (G-10), then  
14 an amount equal to the aggregate amount of the  
15 deductions taken in all taxable years under  
16 subparagraph (R) with respect to that property.

17 If the taxpayer continues to own property through  
18 the last day of the last tax year for which the  
19 taxpayer may claim a depreciation deduction for  
20 federal income tax purposes and for which the taxpayer  
21 was allowed in any taxable year to make a subtraction  
22 modification under subparagraph (R), then an amount  
23 equal to that subtraction modification.

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;

1 (G-12) An amount equal to the amount otherwise  
2 allowed as a deduction in computing base income for  
3 interest paid, accrued, or incurred, directly or  
4 indirectly, (i) for taxable years ending on or after  
5 December 31, 2004, to a foreign person who would be a  
6 member of the same unitary business group but for the  
7 fact that the foreign person's business activity  
8 outside the United States is 80% or more of the foreign  
9 person's total business activity and (ii) for taxable  
10 years ending on or after December 31, 2008, to a person  
11 who would be a member of the same unitary business  
12 group but for the fact that the person is prohibited  
13 under Section 1501(a)(27) from being included in the  
14 unitary business group because he or she is ordinarily  
15 required to apportion business income under different  
16 subsections of Section 304. The addition modification  
17 required by this subparagraph shall be reduced to the  
18 extent that dividends were included in base income of  
19 the unitary group for the same taxable year and  
20 received by the taxpayer or by a member of the  
21 taxpayer's unitary business group (including amounts  
22 included in gross income pursuant to Sections 951  
23 through 964 of the Internal Revenue Code and amounts  
24 included in gross income under Section 78 of the  
25 Internal Revenue Code) with respect to the stock of the  
26 same person to whom the interest was paid, accrued, or

1 incurred.

2 This paragraph shall not apply to the following:

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

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

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

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

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

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 person if  
6 the taxpayer establishes by clear and convincing  
7 evidence that the adjustments are unreasonable; or  
8 if the taxpayer and the Director agree in writing  
9 to the application or use of an alternative method  
10 of apportionment under Section 304(f).

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

20 (G-13) An amount equal to the amount of intangible  
21 expenses and costs otherwise allowed as a deduction in  
22 computing base income, and that were paid, accrued, or  
23 incurred, directly or indirectly, (i) for taxable  
24 years ending on or after December 31, 2004, to a  
25 foreign person who would be a member of the same  
26 unitary business group but for the fact that the

1 foreign person's business activity outside the United  
2 States is 80% or more of that person's total business  
3 activity and (ii) for taxable years ending on or after  
4 December 31, 2008, to a person who would be a member of  
5 the same unitary business group but for the fact that  
6 the person is prohibited under Section 1501(a)(27)  
7 from being included in the unitary business group  
8 because he or she is ordinarily required to apportion  
9 business income under different subsections of Section  
10 304. The addition modification required by this  
11 subparagraph shall be reduced to the extent that  
12 dividends were included in base income of the unitary  
13 group for the same taxable year and received by the  
14 taxpayer or by a member of the taxpayer's unitary  
15 business group (including amounts included in gross  
16 income pursuant to Sections 951 through 964 of the  
17 Internal Revenue Code and amounts included in gross  
18 income under Section 78 of the Internal Revenue Code)  
19 with respect to the stock of the same person to whom  
20 the intangible expenses and costs were directly or  
21 indirectly paid, incurred, or accrued. The preceding  
22 sentence shall not apply to the extent that the same  
23 dividends caused a reduction to the addition  
24 modification required under Section 203(c)(2)(G-12) of  
25 this Act. As used in this subparagraph, the term  
26 "intangible expenses and costs" includes: (1)



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

13 This paragraph shall not apply to the following:

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

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

26 (a) the person during the same taxable

1 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 person did not have as a  
7 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 person if the  
14 taxpayer establishes by clear and convincing  
15 evidence, that the adjustments are unreasonable;  
16 or if the taxpayer and the Director agree in  
17 writing to the application or use of an alternative  
18 method of apportionment under Section 304(f);

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

1 under Section 404 of this Act;

2 (G-14) For taxable years ending on or after  
3 December 31, 2008, an amount equal to the amount of  
4 insurance premium expenses and costs otherwise allowed  
5 as a deduction in computing base income, and that were  
6 paid, accrued, or incurred, directly or indirectly, to  
7 a person who would be a member of the same unitary  
8 business group but for the fact that the person is  
9 prohibited under Section 1501(a)(27) from being  
10 included in the unitary business group because he or  
11 she is ordinarily required to apportion business  
12 income under different subsections of Section 304. The  
13 addition modification required by this subparagraph  
14 shall be reduced to the extent that dividends were  
15 included in base income of the unitary group for the  
16 same taxable year and received by the taxpayer or by a  
17 member of the taxpayer's unitary business group  
18 (including amounts included in gross income under  
19 Sections 951 through 964 of the Internal Revenue Code  
20 and amounts included in gross income under Section 78  
21 of the Internal Revenue Code) with respect to the stock  
22 of the same person to whom the premiums and costs were  
23 directly or indirectly paid, incurred, or accrued. The  
24 preceding sentence does not apply to the extent that  
25 the same dividends caused a reduction to the addition  
26 modification required under Section 203(c)(2)(G-12) or

1 Section 203(c) (2) (G-13) of this Act.

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

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

15 (I) The valuation limitation amount;

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

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

1 from the tax imposed under this Act, the amount  
2 exempted shall be the interest net of bond premium  
3 amortization;

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

17 (M) An amount equal to those dividends included in  
18 such total which were paid by a corporation which  
19 conducts business operations in an Enterprise Zone or  
20 zones created under the Illinois Enterprise Zone Act or  
21 a River Edge Redevelopment Zone or zones created under  
22 the River Edge Redevelopment Zone Act and conducts  
23 substantially all of its operations in an Enterprise  
24 Zone or Zones or a River Edge Redevelopment Zone or  
25 zones. This subparagraph (M) is exempt from the  
26 provisions of Section 250;

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

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

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

18           (Q) For taxable year 1999 and thereafter, an amount  
19 equal to the amount of any (i) distributions, to the  
20 extent includible in gross income for federal income  
21 tax purposes, made to the taxpayer because of his or  
22 her status as a victim of persecution for racial or  
23 religious reasons by Nazi Germany or any other Axis  
24 regime or as an heir of the victim and (ii) items of  
25 income, to the extent includible in gross income for  
26 federal income tax purposes, attributable to, derived

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

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

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

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

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

16 (3) for taxable years ending after December  
17 31, 2005:

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

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



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

9           (S) If the taxpayer sells, transfers, abandons, or  
10          otherwise disposes of property for which the taxpayer  
11          was required in any taxable year to make an addition  
12          modification under subparagraph (G-10), then an amount  
13          equal to that addition modification.

14          If the taxpayer continues to own property through  
15          the last day of the last tax year for which the  
16          taxpayer may claim a depreciation deduction for  
17          federal income tax purposes and for which the taxpayer  
18          was required in any taxable year to make an addition  
19          modification under subparagraph (G-10), then an amount  
20          equal to that addition modification.

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

24          This subparagraph (S) is exempt from the  
25          provisions of Section 250;

26          (T) The amount of (i) any interest income (net of

1 the deductions allocable thereto) taken into account  
2 for the taxable year with respect to a transaction with  
3 a taxpayer that is required to make an addition  
4 modification with respect to such transaction under  
5 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
6 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
7 the amount of such addition modification and (ii) any  
8 income from intangible property (net of the deductions  
9 allocable thereto) taken into account for the taxable  
10 year with respect to a transaction with a taxpayer that  
11 is required to make an addition modification with  
12 respect to such transaction under Section  
13 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
14 203(d)(2)(D-8), but not to exceed the amount of such  
15 addition modification. This subparagraph (T) is exempt  
16 from the provisions of Section 250;

17 (U) An amount equal to the interest income taken  
18 into account for the taxable year (net of the  
19 deductions allocable thereto) with respect to  
20 transactions with (i) a foreign person who would be a  
21 member of the taxpayer's unitary business group but for  
22 the fact the foreign person's business activity  
23 outside the United States is 80% or more of that  
24 person's total business activity and (ii) for taxable  
25 years ending on or after December 31, 2008, to a person  
26 who would be a member of the same unitary business

1 group but for the fact that the person is prohibited  
2 under Section 1501(a)(27) from being included in the  
3 unitary business group because he or she is ordinarily  
4 required to apportion business income under different  
5 subsections of Section 304, but not to exceed the  
6 addition modification required to be made for the same  
7 taxable year under Section 203(c)(2)(G-12) for  
8 interest paid, accrued, or incurred, directly or  
9 indirectly, to the same person. This subparagraph (U)  
10 is exempt from the provisions of Section 250; and

11 (V) An amount equal to the income from intangible  
12 property taken into account for the taxable year (net  
13 of the deductions allocable thereto) with respect to  
14 transactions with (i) a foreign person who would be a  
15 member of the taxpayer's unitary business group but for  
16 the fact that the foreign person's business activity  
17 outside the United States is 80% or more of that  
18 person's total business activity and (ii) for taxable  
19 years ending on or after December 31, 2008, to a person  
20 who would be a member of the same unitary business  
21 group but for the fact that the person is prohibited  
22 under Section 1501(a)(27) from being included in the  
23 unitary business group because he or she is ordinarily  
24 required to apportion business income under different  
25 subsections of Section 304, but not to exceed the  
26 addition modification required to be made for the same

1 taxable year under Section 203(c)(2)(G-13) for  
2 intangible expenses and costs paid, accrued, or  
3 incurred, directly or indirectly, to the same foreign  
4 person. This subparagraph (V) is exempt from the  
5 provisions of Section 250. ~~(W)~~

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

13 (d) Partnerships.

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

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

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

24 (B) An amount equal to the amount of tax imposed by  
25 this Act to the extent deducted from gross income for

1 the taxable year;

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

5 (D) 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 (D-5) For taxable years 2001 and thereafter, an  
10 amount equal to the bonus depreciation deduction taken  
11 on the taxpayer's federal income tax return for the  
12 taxable year under subsection (k) of Section 168 of the  
13 Internal Revenue Code;

14 (D-6) If the taxpayer sells, transfers, abandons,  
15 or otherwise disposes of property for which the  
16 taxpayer was required in any taxable year to make an  
17 addition modification under subparagraph (D-5), then  
18 an amount equal to the aggregate amount of the  
19 deductions taken in all taxable years under  
20 subparagraph (O) with respect to that property.

21 If the taxpayer continues to own property through  
22 the last day of the last tax year for which the  
23 taxpayer may claim a depreciation deduction for  
24 federal income tax purposes and for which the taxpayer  
25 was allowed in any taxable year to make a subtraction  
26 modification under subparagraph (O), then an amount

1 equal to that subtraction modification.

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

5 (D-7) An amount equal to the amount otherwise  
6 allowed as a deduction in computing base income for  
7 interest paid, accrued, or incurred, directly or  
8 indirectly, (i) for taxable years ending on or after  
9 December 31, 2004, to a foreign person who would be a  
10 member of the same unitary business group but for the  
11 fact the foreign person's business activity outside  
12 the United States is 80% or more of the foreign  
13 person's total business activity and (ii) for taxable  
14 years ending on or after December 31, 2008, to a person  
15 who would be a member of the same unitary business  
16 group but for the fact that the person is prohibited  
17 under Section 1501(a)(27) from being included in the  
18 unitary business group because he or she is ordinarily  
19 required to apportion business income under different  
20 subsections of Section 304. The addition modification  
21 required by this subparagraph shall be reduced to the  
22 extent that dividends were included in base income of  
23 the unitary group for the same taxable year and  
24 received by the taxpayer or by a member of the  
25 taxpayer's unitary business group (including amounts  
26 included in gross income pursuant to Sections 951

1 through 964 of the Internal Revenue Code and amounts  
2 included in gross income under Section 78 of the  
3 Internal Revenue Code) with respect to the stock of the  
4 same person to whom the interest was paid, accrued, or  
5 incurred.

6 This paragraph shall not apply to the following:

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

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

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

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

1 terms; or

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

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

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

24 (D-8) An amount equal to the amount of intangible  
25 expenses and costs otherwise allowed as a deduction in  
26 computing base income, and that were paid, accrued, or



1 incurred, directly or indirectly, (i) for taxable  
2 years ending on or after December 31, 2004, to a  
3 foreign person who would be a member of the same  
4 unitary business group but for the fact that the  
5 foreign person's business activity outside the United  
6 States is 80% or more of that person's total business  
7 activity and (ii) for taxable years ending on or after  
8 December 31, 2008, to a person who would be a member of  
9 the same unitary business group but for the fact that  
10 the person is prohibited under Section 1501(a)(27)  
11 from being included in the unitary business group  
12 because he or she is ordinarily required to apportion  
13 business income under different subsections of Section  
14 304. The addition modification required by this  
15 subparagraph shall be reduced to the extent that  
16 dividends were included in base income of the unitary  
17 group for the same taxable year and received by the  
18 taxpayer or by a member of the taxpayer's unitary  
19 business group (including amounts included in gross  
20 income pursuant to Sections 951 through 964 of the  
21 Internal Revenue Code and amounts included in gross  
22 income under Section 78 of the Internal Revenue Code)  
23 with respect to the stock of the same person to whom  
24 the intangible expenses and costs were directly or  
25 indirectly paid, incurred or accrued. The preceding  
26 sentence shall not apply to the extent that the same

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

17 This paragraph shall not apply to the following:

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

25 (ii) any item of intangible expense or cost  
26 paid, accrued, or incurred, directly or

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

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

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

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

23 Nothing in this subsection shall preclude the  
24 Director from making any other adjustment  
25 otherwise allowed under Section 404 of this Act for  
26 any tax year beginning after the effective date of

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

6           (D-9) For taxable years ending on or after December  
7           31, 2008, an amount equal to the amount of insurance  
8           premium expenses and costs otherwise allowed as a  
9           deduction in computing base income, and that were paid,  
10          accrued, or incurred, directly or indirectly, to a  
11          person who would be a member of the same unitary  
12          business group but for the fact that the person is  
13          prohibited under Section 1501(a)(27) from being  
14          included in the unitary business group because he or  
15          she is ordinarily required to apportion business  
16          income under different subsections of Section 304. The  
17          addition modification required by this subparagraph  
18          shall be reduced to the extent that dividends were  
19          included in base income of the unitary group for the  
20          same taxable year and received by the taxpayer or by a  
21          member of the taxpayer's unitary business group  
22          (including amounts included in gross income under  
23          Sections 951 through 964 of the Internal Revenue Code  
24          and amounts included in gross income under Section 78  
25          of the Internal Revenue Code) with respect to the stock  
26          of the same person to whom the premiums and costs were

1 directly or indirectly paid, incurred, or accrued. The  
2 preceding sentence does not apply to the extent that  
3 the same dividends caused a reduction to the addition  
4 modification required under Section 203(d) (2) (D-7) or  
5 Section 203(d) (2) (D-8) of this Act.

6 and by deducting from the total so obtained the following  
7 amounts:

8 (E) The valuation limitation amount;

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

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

22 (H) Any income of the partnership which  
23 constitutes personal service income as defined in  
24 Section 1348 (b) (1) of the Internal Revenue Code (as  
25 in effect December 31, 1981) or a reasonable allowance  
26 for compensation paid or accrued for services rendered

1 by partners to the partnership, whichever is greater;

2 (I) An amount equal to all amounts of income  
3 distributable to an entity subject to the Personal  
4 Property Tax Replacement Income Tax imposed by  
5 subsections (c) and (d) of Section 201 of this Act  
6 including amounts distributable to organizations  
7 exempt from federal income tax by reason of Section  
8 501(a) of the Internal Revenue Code;

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

22 (K) An amount equal to those dividends included in  
23 such total which were paid by a corporation which  
24 conducts business operations in an Enterprise Zone or  
25 zones created under the Illinois Enterprise Zone Act,  
26 enacted by the 82nd General Assembly, or a River Edge

1           Redevelopment Zone or zones created under the River  
2           Edge Redevelopment Zone Act and conducts substantially  
3           all of its operations in an Enterprise Zone or Zones or  
4           from a River Edge Redevelopment Zone or zones. This  
5           subparagraph (K) is exempt from the provisions of  
6           Section 250;

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

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

19          (N) 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          (O) For taxable years 2001 and thereafter, for the  
25          taxable year in which the bonus depreciation deduction  
26          is taken on the taxpayer's federal income tax return

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

4 (1) "y" equals the amount of the depreciation  
5 deduction taken for the taxable year on the  
6 taxpayer's federal income tax return on property  
7 for which the bonus depreciation deduction 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;

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

15 (3) for taxable years ending after December  
16 31, 2005:

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

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

26 The aggregate amount deducted under this



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

8           (P) If the taxpayer sells, transfers, abandons, or  
9           otherwise disposes of property for which the taxpayer  
10          was required in any taxable year to make an addition  
11          modification under subparagraph (D-5), then an amount  
12          equal to that addition modification.

13          If the taxpayer continues to own property through  
14          the last day of the last tax year for which the  
15          taxpayer may claim a depreciation deduction for  
16          federal income tax purposes and for which the taxpayer  
17          was required in any taxable year to make an addition  
18          modification under subparagraph (D-5), then an amount  
19          equal to that addition modification.

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

23          This subparagraph (P) is exempt from the  
24          provisions of Section 250;

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

1 for the taxable year with respect to a transaction with  
2 a taxpayer that is required to make an addition  
3 modification with respect to such transaction under  
4 Section 203(a)(2)(D-17), 203(b)(2)(E-12),  
5 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed  
6 the amount of such addition modification and (ii) any  
7 income from intangible property (net of the deductions  
8 allocable thereto) taken into account for the taxable  
9 year with respect to a transaction with a taxpayer that  
10 is required to make an addition modification with  
11 respect to such transaction under Section  
12 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
13 203(d)(2)(D-8), but not to exceed the amount of such  
14 addition modification. This subparagraph (Q) is exempt  
15 from Section 250;

16 (R) An amount equal to the interest income taken  
17 into account for the taxable year (net of the  
18 deductions allocable thereto) with respect to  
19 transactions with (i) a foreign person who would be a  
20 member of the taxpayer's unitary business group but for  
21 the fact that the foreign person's business activity  
22 outside the United States is 80% or more of that  
23 person's total business activity and (ii) for taxable  
24 years ending on or after December 31, 2008, to a person  
25 who would be a member of the same unitary business  
26 group but for the fact that the person is prohibited

1 under Section 1501(a)(27) from being included in the  
2 unitary business group because he or she is ordinarily  
3 required to apportion business income under different  
4 subsections of Section 304, but not to exceed the  
5 addition modification required to be made for the same  
6 taxable year under Section 203(d)(2)(D-7) for interest  
7 paid, accrued, or incurred, directly or indirectly, to  
8 the same person. This subparagraph (R) is exempt from  
9 Section 250; and

10 (S) An amount equal to the income from intangible  
11 property taken into account for the taxable year (net  
12 of the deductions allocable thereto) with respect to  
13 transactions with (i) 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 and (ii) for taxable  
18 years ending on or after December 31, 2008, to a person  
19 who would be a member of the same unitary business  
20 group but for the fact that the person is prohibited  
21 under Section 1501(a)(27) from being included in the  
22 unitary business group because he or she is ordinarily  
23 required to apportion business income under different  
24 subsections of Section 304, but not to exceed the  
25 addition modification required to be made for the same  
26 taxable year under Section 203(d)(2)(D-8) for

1 intangible expenses and costs paid, accrued, or  
2 incurred, directly or indirectly, to the same person.  
3 This subparagraph (S) is exempt from Section 250. ~~(T)~~

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

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

1 modifications, other than those provided by subparagraph  
2 (E) of paragraph (2) of subsection (b) for corporations or  
3 subparagraph (E) of paragraph (2) of subsection (c) for  
4 trusts and estates, exceed subtraction modifications, an  
5 addition modification must be made under those  
6 subparagraphs for any other taxable year to which the  
7 taxable income less than zero (net operating loss) is  
8 applied under Section 172 of the Internal Revenue Code or  
9 under subparagraph (E) of paragraph (2) of this subsection  
10 (e) applied in conjunction with Section 172 of the Internal  
11 Revenue Code.

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

15 (A) Certain life insurance companies. In the case  
16 of a life insurance company subject to the tax imposed  
17 by Section 801 of the Internal Revenue Code, life  
18 insurance company taxable income, plus the amount of  
19 distribution from pre-1984 policyholder surplus  
20 accounts as calculated under Section 815a of the  
21 Internal Revenue Code;

22 (B) Certain other insurance companies. In the case  
23 of mutual insurance companies subject to the tax  
24 imposed by Section 831 of the Internal Revenue Code,  
25 insurance company taxable income;

26 (C) Regulated investment companies. In the case of

1 a regulated investment company subject to the tax  
2 imposed by Section 852 of the Internal Revenue Code,  
3 investment company taxable income;

4 (D) Real estate investment trusts. In the case of a  
5 real estate investment trust subject to the tax imposed  
6 by Section 857 of the Internal Revenue Code, real  
7 estate investment trust taxable income;

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

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

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

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

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

22 (3) Recapture of business expenses on disposition of  
23 asset or business. Notwithstanding any other law to the  
24 contrary, if in prior years income from an asset or  
25 business has been classified as business income and in a  
26 later year is demonstrated to be non-business income, then

1 all expenses, without limitation, deducted in such later  
2 year and in the 2 immediately preceding taxable years  
3 related to that asset or business that generated the  
4 non-business income shall be added back and recaptured as  
5 business income in the year of the disposition of the asset  
6 or business. Such amount shall be apportioned to Illinois  
7 using the greater of the apportionment fraction computed  
8 for the business under Section 304 of this Act for the  
9 taxable year or the average of the apportionment fractions  
10 computed for the business under Section 304 of this Act for  
11 the taxable year and for the 2 immediately preceding  
12 taxable years.

13 (f) Valuation limitation amount.

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

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

22 (B) The lesser of (i) the sum of the pre-August 1,  
23 1969 appreciation amounts (to the extent consisting of  
24 capital gain) for all property in respect of which such  
25 gain was reported for federal income tax purposes for



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

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

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

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

1 period for the property.

2 (C) The Department shall prescribe such  
3 regulations as may be necessary to carry out the  
4 purposes of this paragraph.

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

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

17 (Source: P.A. 94-776, eff. 5-19-06; 94-789, eff. 5-19-06;  
18 94-1021, eff. 7-12-06; 94-1074, eff. 12-26-06; 95-23, eff.  
19 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331,  
20 eff. 8-21-07; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08;  
21 revised 10-15-08.)