



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3865

Introduced 2/26/2009, by Rep. Jehan A. Gordon

SYNOPSIS AS INTRODUCED:

New Act
35 ILCS 5/203
815 ILCS 5/3

from Ch. 120, par. 2-203
from Ch. 121 1/2, par. 137.3

Creates the Homecare Option Program for the Elderly Act and amends the Illinois Income Tax Act and the Illinois Securities Law of 1953. Provides that a person may create an individual savings account, in accordance with terms prescribed by the State Treasurer, for the purpose of planning for the cost of services that will allow the person to remain in his or her home or in a noninstitutional setting as he or she ages. Requires the Treasurer to establish the Homecare Trust Fund, to be comprised of individual savings accounts for those qualified home care expenses not covered by a long-term care insurance policy and for those qualified home care expenses that supplement the coverage provided by a long-term care policy or Medicare. Imposes other duties on the Treasurer in connection with administering the Fund. Provides that interest earned on contributions to a savings account created under the Act is exempt from State income tax. Provides that participation in the trust established under the Homecare Option for the Elderly Act, and any offering and solicitation of the trust, are exempt from provisions of the Illinois Securities Law of 1953 concerning registration of securities.

LRB096 09815 DRJ 19978 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning aging.

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

4 Section 1. Short title. This Act may be cited as the
5 Homecare Option Program for the Elderly Act.

6 Section 5. Definitions. In this Act:

7 "Depositor" means any person making a payment,
8 contribution, gift, endowment, or other deposit to the trust
9 pursuant to a participation agreement.

10 "Designated beneficiary" means any individual who enters
11 into a participation agreement or is subsequently designated as
12 a spouse of the designated beneficiary.

13 "Eligible home care provider" means (i) a provider licensed
14 in Illinois to perform home services, (ii) licensed
15 transportation services, or (iii) a personal care assistant.

16 "Instrumental activities of daily living" means activities
17 related to independent living necessary to maintain an
18 individual in his or her home or other noninstitutional
19 setting, and includes, but is not limited to, adult day care,
20 personal assistant services, companion services, meal
21 preparation or home-delivered meals, transportation services,
22 and home care aide services.

23 "Participation agreement" means the agreement between the

1 trust and depositors for participation in a savings plan for a
2 designated beneficiary.

3 "Qualified home care expenses" means the cost of services
4 performed by an eligible home care provider for the
5 instrumental activities of daily living, and the cost of any
6 other service recommended by a physician and provided by an
7 eligible home care provider.

8 "Trust" means the Homecare Trust Fund.

9 Section 10. Program established.

10 (a) The Homecare Option Program for the Elderly is
11 established for the purpose of allowing individuals to plan for
12 the cost of services that will allow them to remain in their
13 homes or in a noninstitutional setting as they age. An
14 individual may create an individual savings account for this
15 purpose, in accordance with terms prescribed by the State
16 Treasurer.

17 (b) The State Treasurer shall establish the Homecare Trust
18 Fund, which shall be comprised of individual savings accounts
19 for those qualified home care expenses not covered by a
20 long-term care insurance policy and for those qualified home
21 care expenses that supplement the coverage provided by a
22 long-term care policy or Medicare. Withdrawals from the fund
23 may be used for qualified home care expenses, upon receipt by
24 the fund of a physician's certification that the designated
25 beneficiary is in need of services for the instrumental

1 activities of daily living. Upon the death of a designated
2 beneficiary, any available funds in the beneficiary's account
3 shall be an asset of the estate of the beneficiary.

4 Section 15. Treasurer's powers with respect to trust. The
5 State Treasurer, on behalf of the trust and for purposes of the
6 trust, may do the following:

7 (1) Receive and invest moneys in the trust in any
8 instruments, obligations, securities, or property in
9 accordance with Section 20.

10 (2) Procure insurance in connection with the trust's
11 property, assets, activities, or deposits or contributions
12 to the trust.

13 (3) Establish one or more funds within the trust and
14 maintain separate accounts for each designated
15 beneficiary.

16 (4) Enter into one or more contractual agreements,
17 including contracts for legal, actuarial, accounting,
18 custodial, advisory, management, administrative,
19 advertising, marketing, and consulting services, for the
20 trust and pay for those services from the gains and
21 earnings of the trust.

22 (5) Apply for, accept, and expend gifts, grants, or
23 donations from public or private sources to enable the
24 trust to carry out its objectives.

25 (6) Adopt rules to implement this Act.

1 (7) Sue and be sued.

2 (8) Take any other action necessary to carry out the
3 purposes of this Act and incidental to the duties imposed
4 on the Treasurer pursuant to this Act.

5 Section 20. Investment of trust amounts. The State
6 Treasurer shall invest the amounts on deposit in the trust in a
7 manner reasonable and appropriate to achieve the objectives of
8 the trust, exercising the discretion and care of a prudent
9 person in similar circumstances with similar objectives. The
10 Treasurer shall give due consideration to rate of return, risk,
11 term or maturity, diversification of the total portfolio within
12 the trust, liquidity, the projected disbursements and
13 expenditures, and the expected payments, deposits,
14 contributions, and gifts to be received. The Treasurer shall
15 not require the trust to invest directly in obligations of the
16 State or any political subdivision of the State or in any
17 investment or other fund administered by the Treasurer. The
18 assets of the trust shall be continuously invested and
19 reinvested in a manner consistent with the objectives of the
20 trust until disbursed for qualified home care expenses,
21 expended on expenses incurred by the operations of the trust,
22 or refunded to the depositor or designated beneficiary on the
23 conditions provided in the participation agreement.

24 Section 25. Participation agreement terms. The State

1 Treasurer, on behalf of the trust and for purposes of the
2 trust, may establish consistent terms for each participation
3 agreement, bulk deposit, coupon or installment payments,
4 including, but not limited to, the following:

5 (1) The method of payment into the trust by payroll
6 deduction, transfer from bank accounts, or otherwise.

7 (2) The termination, withdrawal, or transfer of
8 payments under the trust, including transfers to an
9 eligible home care provider.

10 (3) Penalties for distributions not used or made in
11 accordance with this Act.

12 (4) Changing the identity of the designated
13 beneficiary.

14 (5) Any charges or fees in connection with the
15 administration of the trust.

16 Section 30. Illinois Securities Law of 1953; federal
17 securities laws. Participation in the trust and the offering
18 and solicitation of the trust are exempt from provisions of the
19 Illinois Securities Law of 1953 as provided in that Law. The
20 State Treasurer shall obtain written advice of counsel or
21 written advice from the Securities Exchange Commission, or
22 both, that the trust and the offering of participation in the
23 trust are not subject to federal securities laws.

24 Section 35. State's pledge. The State pledges to

1 depositors, designated beneficiaries, and any party who enters
2 into contracts with the trust, pursuant to the provisions of
3 this Act, that the State will not limit or alter the rights
4 under this Act vested in the trust or contract with the trust
5 until such obligations are fully met and discharged and such
6 contracts are fully performed on the part of the trust. Nothing
7 in this Section shall preclude such limitation or alteration if
8 adequate provision is made by law for the protection of such
9 depositors and designated beneficiaries pursuant to the
10 obligations of the trust or parties who entered into such
11 contracts with the trust. The trust, on behalf of the State,
12 may include this pledge and undertaking for the State in
13 participation agreements and such other obligations or
14 contracts.

15 Section 92. The Illinois Income Tax Act is amended by
16 changing Section 203 as follows:

17 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

18 Sec. 203. Base income defined.

19 (a) Individuals.

20 (1) In general. In the case of an individual, base
21 income means an amount equal to the taxpayer's adjusted
22 gross income for the taxable year as modified by paragraph
23 (2).

24 (2) Modifications. The adjusted gross income referred

1 to in paragraph (1) shall be modified by adding thereto the
2 sum of the following amounts:

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

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

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

26 (D) An amount equal to the amount of the capital

1 gain deduction allowable under the Internal Revenue
2 Code, to the extent deducted from gross income in the
3 computation of adjusted gross income;

4 (D-5) An amount, to the extent not included in
5 adjusted gross income, equal to the amount of money
6 withdrawn by the taxpayer in the taxable year from a
7 medical care savings account and the interest earned on
8 the account in the taxable year of a withdrawal
9 pursuant to subsection (b) of Section 20 of the Medical
10 Care Savings Account Act or subsection (b) of Section
11 20 of the Medical Care Savings Account Act of 2000;

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

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

22 (D-16) If the taxpayer sells, transfers, abandons,
23 or otherwise disposes of property for which the
24 taxpayer was required in any taxable year to make an
25 addition modification under subparagraph (D-15), then
26 an amount equal to the aggregate amount of the

1 deductions taken in all taxable years under
2 subparagraph (Z) with respect to that property.

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

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

13 (D-17) An amount equal to the amount otherwise
14 allowed as a deduction in computing base income for
15 interest paid, accrued, or incurred, directly or
16 indirectly, (i) for taxable years ending on or after
17 December 31, 2004, to a foreign person who would be a
18 member of the same unitary business group but for the
19 fact that foreign person's business activity outside
20 the United States is 80% or more of the foreign
21 person's total business activity and (ii) for taxable
22 years ending on or after December 31, 2008, to a person
23 who would be a member of the same unitary business
24 group but for the fact that the person is prohibited
25 under Section 1501(a)(27) from being included in the
26 unitary business group because he or she is ordinarily

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

13 This paragraph shall not apply to the following:

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

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

25 (a) the person, during the same taxable
26 year, paid, accrued, or incurred, the interest

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

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

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

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

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

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

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

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

24 This paragraph shall not apply to the following:

25 (i) any item of intangible expenses or costs
26 paid, accrued, or incurred, directly or

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

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

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

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

22 (iii) any item of intangible expense or cost
23 paid, accrued, or incurred, directly or
24 indirectly, from a transaction with a person if the
25 taxpayer establishes by clear and convincing
26 evidence, that the adjustments are unreasonable;

1 or if the taxpayer and the Director agree in
2 writing to the application or use of an alternative
3 method of apportionment under Section 304(f);

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

13 (D-19) For taxable years ending on or after
14 December 31, 2008, an amount equal to the amount of
15 insurance premium expenses and costs otherwise allowed
16 as a deduction in computing base income, and that were
17 paid, accrued, or incurred, directly or indirectly, to
18 a person who would be a member of the same unitary
19 business group but for the fact that the person is
20 prohibited under Section 1501(a)(27) from being
21 included in the unitary business group because he or
22 she is ordinarily required to apportion business
23 income under different subsections of Section 304. The
24 addition modification required by this subparagraph
25 shall be reduced to the extent that dividends were
26 included in base income of the unitary group for the

1 same taxable year and received by the taxpayer or by a
2 member of the taxpayer's unitary business group
3 (including amounts included in gross income under
4 Sections 951 through 964 of the Internal Revenue Code
5 and amounts included in gross income under Section 78
6 of the Internal Revenue Code) with respect to the stock
7 of the same person to whom the premiums and costs were
8 directly or indirectly paid, incurred, or accrued. The
9 preceding sentence does not apply to the extent that
10 the same dividends caused a reduction to the addition
11 modification required under Section 203(a)(2)(D-17) or
12 Section 203(a)(2)(D-18) of this Act.

13 (D-20) For taxable years beginning on or after
14 January 1, 2002 and ending on or before December 31,
15 2006, in the case of a distribution from a qualified
16 tuition program under Section 529 of the Internal
17 Revenue Code, other than (i) a distribution from a
18 College Savings Pool created under Section 16.5 of the
19 State Treasurer Act or (ii) a distribution from the
20 Illinois Prepaid Tuition Trust Fund, an amount equal to
21 the amount excluded from gross income under Section
22 529(c)(3)(B). For taxable years beginning on or after
23 January 1, 2007, in the case of a distribution from a
24 qualified tuition program under Section 529 of the
25 Internal Revenue Code, other than (i) a distribution
26 from a College Savings Pool created under Section 16.5

1 of the State Treasurer Act, (ii) a distribution from
2 the Illinois Prepaid Tuition Trust Fund, or (iii) a
3 distribution from a qualified tuition program under
4 Section 529 of the Internal Revenue Code that (I)
5 adopts and determines that its offering materials
6 comply with the College Savings Plans Network's
7 disclosure principles and (II) has made reasonable
8 efforts to inform in-state residents of the existence
9 of in-state qualified tuition programs by informing
10 Illinois residents directly and, where applicable, to
11 inform financial intermediaries distributing the
12 program to inform in-state residents of the existence
13 of in-state qualified tuition programs at least
14 annually, an amount equal to the amount excluded from
15 gross income under Section 529(c)(3)(B).

16 For the purposes of this subparagraph (D-20), a
17 qualified tuition program has made reasonable efforts
18 if it makes disclosures (which may use the term
19 "in-state program" or "in-state plan" and need not
20 specifically refer to Illinois or its qualified
21 programs by name) (i) directly to prospective
22 participants in its offering materials or makes a
23 public disclosure, such as a website posting; and (ii)
24 where applicable, to intermediaries selling the
25 out-of-state program in the same manner that the
26 out-of-state program distributes its offering

1 materials;

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

9 and by deducting from the total so obtained the sum of the
10 following amounts:

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

1 December 31, 2001, any amount included in such total in
2 respect of any compensation (including but not limited
3 to any compensation paid or accrued to a serviceman
4 while a prisoner of war or missing in action) paid to a
5 resident by reason of being a member of any component
6 of the Armed Forces of the United States and in respect
7 of any compensation paid or accrued to a resident who
8 as a governmental employee was a prisoner of war or
9 missing in action, and in respect of any compensation
10 paid to a resident in 2001 or thereafter by reason of
11 being a member of the Illinois National Guard or,
12 beginning with taxable years ending on or after
13 December 31, 2007, the National Guard of any other
14 state. The provisions of this amendatory Act of the
15 92nd General Assembly are exempt from the provisions of
16 Section 250;

17 (F) An amount equal to all amounts included in such
18 total pursuant to the provisions of Sections 402(a),
19 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the
20 Internal Revenue Code, or included in such total as
21 distributions under the provisions of any retirement
22 or disability plan for employees of any governmental
23 agency or unit, or retirement payments to retired
24 partners, which payments are excluded in computing net
25 earnings from self employment by Section 1402 of the
26 Internal Revenue Code and regulations adopted pursuant

1 thereto;

2 (G) The valuation limitation amount;

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

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

11 (J) An amount equal to those dividends included in
12 such total which were paid by a corporation which
13 conducts business operations in an Enterprise Zone or
14 zones created under the Illinois Enterprise Zone Act or
15 a River Edge Redevelopment Zone or zones created under
16 the River Edge Redevelopment Zone Act, and conducts
17 substantially all of its operations in an Enterprise
18 Zone or zones or a River Edge Redevelopment Zone or
19 zones. This subparagraph (J) is exempt from the
20 provisions of Section 250;

21 (K) An amount equal to those dividends included in
22 such total that were paid by a corporation that
23 conducts business operations in a federally designated
24 Foreign Trade Zone or Sub-Zone and that is designated a
25 High Impact Business located in Illinois; provided
26 that dividends eligible for the deduction provided in

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

4 (L) For taxable years ending after December 31,
5 1983, an amount equal to all social security benefits
6 and railroad retirement benefits included in such
7 total pursuant to Sections 72(r) and 86 of the Internal
8 Revenue Code;

9 (M) With the exception of any amounts subtracted
10 under subparagraph (N), 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 of 1954, as now or hereafter amended; and (ii) for
17 taxable years ending on or after August 13, 1999,
18 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
19 the Internal Revenue Code; the provisions of this
20 subparagraph are exempt from the provisions of Section
21 250;

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

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

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

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

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

1 as provided in that Act;

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

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

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

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

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

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

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

1 of Section 250;

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

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

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

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

7 (2) for taxable years ending on or before
8 December 31, 2005, "x" equals "y" multiplied by 30
9 and then divided by 70 (or "y" multiplied by
10 0.429); and

11 (3) for taxable years ending after December
12 31, 2005:

13 (i) for property on which a bonus
14 depreciation deduction of 30% of the adjusted
15 basis was taken, "x" equals "y" multiplied by
16 30 and then divided by 70 (or "y" multiplied by
17 0.429); and

18 (ii) for property on which a bonus
19 depreciation deduction of 50% of the adjusted
20 basis was taken, "x" equals "y" multiplied by
21 1.0.

22 The aggregate amount deducted under this
23 subparagraph in all taxable years for any one piece of
24 property may not exceed the amount of the bonus
25 depreciation deduction taken on that property on the
26 taxpayer's federal income tax return under subsection

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

4 (AA) If the taxpayer sells, transfers, abandons,
5 or otherwise disposes of property for which the
6 taxpayer was required in any taxable year to make an
7 addition modification under subparagraph (D-15), then
8 an amount equal to that addition modification.

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

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

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

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

24 (CC) The amount of (i) any interest income (net of
25 the deductions allocable thereto) taken into account
26 for the taxable year with respect to a transaction with

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

15 (DD) An amount equal to the interest income taken
16 into account for the taxable year (net of the
17 deductions allocable thereto) with respect to
18 transactions with (i) a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact that the foreign person's business activity
21 outside the United States is 80% or more of that
22 person's total business activity and (ii) for taxable
23 years ending on or after December 31, 2008, to a person
24 who would be a member of the same unitary business
25 group but for the fact that the person is prohibited
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304, but not to exceed the
4 addition modification required to be made for the same
5 taxable year under Section 203(a)(2)(D-17) for
6 interest paid, accrued, or incurred, directly or
7 indirectly, to the same person. This subparagraph (DD)
8 is exempt from the provisions of Section 250; ~~and~~

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

1 incurred, directly or indirectly, to the same foreign
2 person. This subparagraph (EE) is exempt from the
3 provisions of Section 250; and -

4 (FF) To the extent properly includable in the gross
5 income for federal income tax purposes of a designated
6 beneficiary, as defined in the Homecare Option Program
7 for the Elderly Act, an amount equal to the interest
8 earned on contributions to accounts established for
9 the designated beneficiary pursuant to that Act.

10 (b) Corporations.

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

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

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

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

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

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

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

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

24 (i) the addition modification relating to the
25 net operating loss carried back or forward to the
26 taxable year from any taxable year ending prior to

1 December 31, 1986 shall be reduced by the amount of
2 addition modification under this subparagraph (E)
3 which related to that net operating loss and which
4 was taken into account in calculating the base
5 income of an earlier taxable year, and

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

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

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

23 (E-10) For taxable years 2001 and thereafter, an
24 amount equal to the bonus depreciation deduction taken
25 on the taxpayer's federal income tax return for the
26 taxable year under subsection (k) of Section 168 of the

1 Internal Revenue Code;

2 (E-11) If the taxpayer sells, transfers, abandons,
3 or otherwise disposes of property for which the
4 taxpayer was required in any taxable year to make an
5 addition modification under subparagraph (E-10), then
6 an amount equal to the aggregate amount of the
7 deductions taken in all taxable years under
8 subparagraph (T) with respect to that property.

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

16 The taxpayer is required to make the addition
17 modification under this subparagraph only once with
18 respect to any one piece of property;

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

1 person's total business activity and (ii) for taxable
2 years ending on or after December 31, 2008, to a person
3 who would be a member of the same unitary business
4 group but for the fact that the person is prohibited
5 under Section 1501(a)(27) from being included in the
6 unitary business group because he or she is ordinarily
7 required to apportion business income under different
8 subsections of Section 304. The addition modification
9 required by this subparagraph shall be reduced to the
10 extent that dividends were included in base income of
11 the unitary group for the same taxable year and
12 received by the taxpayer or by a member of the
13 taxpayer's unitary business group (including amounts
14 included in gross income pursuant to Sections 951
15 through 964 of the Internal Revenue Code and amounts
16 included in gross income under Section 78 of the
17 Internal Revenue Code) with respect to the stock of the
18 same person to whom the interest was paid, accrued, or
19 incurred.

20 This paragraph shall not apply to the following:

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

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

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

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

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

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

1 to the application or use of an alternative method
2 of apportionment under Section 304(f).

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

12 (E-13) An amount equal to the amount of intangible
13 expenses and costs otherwise allowed as a deduction in
14 computing base income, and that were paid, accrued, or
15 incurred, directly or indirectly, (i) for taxable
16 years ending on or after December 31, 2004, to a
17 foreign person who would be a member of the same
18 unitary business group but for the fact that the
19 foreign person's business activity outside the United
20 States is 80% or more of that person's total business
21 activity and (ii) for taxable years ending on or after
22 December 31, 2008, to a person who would be a member of
23 the same unitary business group but for the fact that
24 the person is prohibited under Section 1501(a)(27)
25 from being included in the unitary business group
26 because he or she is ordinarily required to apportion

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

1 subparagraph, "intangible property" includes patents,
2 patent applications, trade names, trademarks, service
3 marks, copyrights, mask works, trade secrets, and
4 similar types of intangible assets.

5 This paragraph shall not apply to the following:

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

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

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

22 (b) the transaction giving rise to the
23 intangible expense or cost between the
24 taxpayer and the person did not have as a
25 principal purpose the avoidance of Illinois
26 income tax, and is paid pursuant to a contract

1 or agreement that reflects arm's-length terms;

2 or

3 (iii) any item of intangible expense or cost
4 paid, accrued, or incurred, directly or
5 indirectly, from a transaction with a person if the
6 taxpayer establishes by clear and convincing
7 evidence, that the adjustments are unreasonable;
8 or if the taxpayer and the Director agree in
9 writing to the application or use of an alternative
10 method 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 (E-14) For taxable years ending on or after
21 December 31, 2008, an amount equal to the amount of
22 insurance premium expenses and costs otherwise allowed
23 as a deduction in computing base income, and that were
24 paid, accrued, or incurred, directly or indirectly, to
25 a person who would be a member of the same unitary
26 business group but for the fact that the person is

1 prohibited under Section 1501(a)(27) from being
2 included in the unitary business group because he or
3 she is ordinarily required to apportion business
4 income under different subsections of Section 304. The
5 addition modification required by this subparagraph
6 shall be reduced to the extent that dividends were
7 included in base income of the unitary group for the
8 same taxable year and received by the taxpayer or by a
9 member of the taxpayer's unitary business group
10 (including amounts included in gross income under
11 Sections 951 through 964 of the Internal Revenue Code
12 and amounts included in gross income under Section 78
13 of the Internal Revenue Code) with respect to the stock
14 of the same person to whom the premiums and costs were
15 directly or indirectly paid, incurred, or accrued. The
16 preceding sentence does not apply to the extent that
17 the same dividends caused a reduction to the addition
18 modification required under Section 203(b)(2)(E-12) or
19 Section 203(b)(2)(E-13) of this Act;

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

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

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

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

6 (H) In the case of a regulated investment company,
7 an amount equal to the amount of exempt interest
8 dividends as defined in subsection (b) (5) of Section
9 852 of the Internal Revenue Code, paid to shareholders
10 for the taxable year;

11 (I) With the exception of any amounts subtracted
12 under subparagraph (J), an amount equal to the sum of
13 all amounts disallowed as deductions by (i) Sections
14 171(a) (2), and 265(a) (2) and amounts disallowed as
15 interest expense by Section 291(a) (3) of the Internal
16 Revenue Code, as now or hereafter amended, and all
17 amounts of expenses allocable to interest and
18 disallowed as deductions by Section 265(a) (1) of the
19 Internal Revenue Code, as now or hereafter amended; and
20 (ii) for taxable years ending on or after August 13,
21 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and
22 832(b) (5) (B) (i) of the Internal Revenue Code; the
23 provisions of this subparagraph are exempt from the
24 provisions of Section 250;

25 (J) An amount equal to all amounts included in such
26 total which are exempt from taxation by this State

1 either by reason of its statutes or Constitution or by
2 reason of the Constitution, treaties or statutes of the
3 United States; provided that, in the case of any
4 statute of this State that exempts income derived from
5 bonds or other obligations from the tax imposed under
6 this Act, the amount exempted shall be the interest net
7 of bond premium amortization;

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

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

1 (M) For any taxpayer that is a financial
2 organization within the meaning of Section 304(c) of
3 this Act, an amount included in such total as interest
4 income from a loan or loans made by such taxpayer to a
5 borrower, to the extent that such a loan is secured by
6 property which is eligible for the Enterprise Zone
7 Investment Credit or the River Edge Redevelopment Zone
8 Investment Credit. To determine the portion of a loan
9 or loans that is secured by property eligible for a
10 Section 201(f) investment credit to the borrower, the
11 entire principal amount of the loan or loans between
12 the taxpayer and the borrower should be divided into
13 the basis of the Section 201(f) investment credit
14 property which secures the loan or loans, using for
15 this purpose the original basis of such property on the
16 date that it was placed in service in the Enterprise
17 Zone or the River Edge Redevelopment Zone. The
18 subtraction modification available to taxpayer in any
19 year under this subsection shall be that portion of the
20 total interest paid by the borrower with respect to
21 such loan attributable to the eligible property as
22 calculated under the previous sentence. This
23 subparagraph (M) is exempt from the provisions of
24 Section 250;

25 (M-1) For any taxpayer that is a financial
26 organization within the meaning of Section 304(c) of

1 this Act, an amount included in such total as interest
2 income from a loan or loans made by such taxpayer to a
3 borrower, to the extent that such a loan is secured by
4 property which is eligible for the High Impact Business
5 Investment Credit. To determine the portion of a loan
6 or loans that is secured by property eligible for a
7 Section 201(h) 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(h) 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 a federally
14 designated Foreign Trade Zone or Sub-Zone located in
15 Illinois. No taxpayer that is eligible for the
16 deduction provided in subparagraph (M) of paragraph
17 (2) of this subsection shall be eligible for the
18 deduction provided under this subparagraph (M-1). The
19 subtraction modification available to taxpayers in any
20 year under this subsection shall be that portion of the
21 total interest paid by the borrower with respect to
22 such loan attributable to the eligible property as
23 calculated under the previous sentence;

24 (N) Two times any contribution made during the
25 taxable year to a designated zone organization to the
26 extent that the contribution (i) qualifies as a

1 charitable contribution under subsection (c) of
2 Section 170 of the Internal Revenue Code and (ii) must,
3 by its terms, be used for a project approved by the
4 Department of Commerce and Economic Opportunity under
5 Section 11 of the Illinois Enterprise Zone Act or under
6 Section 10-10 of the River Edge Redevelopment Zone Act.
7 This subparagraph (N) is exempt from the provisions of
8 Section 250;

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

1 amount by which dividends, included in taxable income
2 and received, including, for taxable years ending on or
3 after December 31, 1988, dividends received or deemed
4 received or paid or deemed paid under Sections 951
5 through 964 of the Internal Revenue Code and including,
6 for taxable years ending on or after December 31, 2008,
7 dividends received from a captive real estate
8 investment trust, from any such corporation specified
9 in clause (i) that would but for the provisions of
10 Section 1504 (b) (3) of the Internal Revenue Code be
11 treated as a member of the affiliated group which
12 includes the dividend recipient, exceed the amount of
13 the modification provided under subparagraph (G) of
14 paragraph (2) of this subsection (b) which is related
15 to such dividends. This subparagraph (O) is exempt from
16 the provisions of Section 250 of this Act;

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

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

25 (R) On and after July 20, 1999, in the case of an
26 attorney-in-fact with respect to whom an interinsurer

1 or a reciprocal insurer has made the election under
2 Section 835 of the Internal Revenue Code, 26 U.S.C.
3 835, an amount equal to the excess, if any, of the
4 amounts paid or incurred by that interinsurer or
5 reciprocal insurer in the taxable year to the
6 attorney-in-fact over the deduction allowed to that
7 interinsurer or reciprocal insurer with respect to the
8 attorney-in-fact under Section 835(b) of the Internal
9 Revenue Code for the taxable year; the provisions of
10 this subparagraph are exempt from the provisions of
11 Section 250;

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

22 (T) For taxable years 2001 and thereafter, for the
23 taxable year in which the bonus depreciation deduction
24 is taken on the taxpayer's federal income tax return
25 under subsection (k) of Section 168 of the Internal
26 Revenue Code and for each applicable taxable year

1 thereafter, an amount equal to "x", where:

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

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

13 (3) for taxable years ending after December
14 31, 2005:

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

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

24 The aggregate amount deducted under this
25 subparagraph in all taxable years for any one piece of
26 property may not exceed the amount of the bonus

1 depreciation deduction taken on that property on the
2 taxpayer's federal income tax return under subsection
3 (k) of Section 168 of the Internal Revenue Code. This
4 subparagraph (T) is exempt from the provisions of
5 Section 250;

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

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

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

21 This subparagraph (U) is exempt from the
22 provisions of Section 250;

23 (V) The amount of: (i) any interest income (net of
24 the deductions allocable thereto) taken into account
25 for the taxable year with respect to a transaction with
26 a taxpayer that is required to make an addition

1 modification with respect to such transaction under
2 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
3 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
4 the amount of such addition modification, (ii) any
5 income from intangible property (net of the deductions
6 allocable thereto) taken into account for the taxable
7 year with respect to a transaction with a taxpayer that
8 is required to make an addition modification with
9 respect to such transaction under Section
10 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
11 203(d)(2)(D-8), but not to exceed the amount of such
12 addition modification, and (iii) any insurance premium
13 income (net of deductions allocable thereto) taken
14 into account for the taxable year with respect to a
15 transaction with a taxpayer that is required to make an
16 addition modification with respect to such transaction
17 under Section 203(a)(2)(D-19), Section
18 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
19 203(d)(2)(D-9), but not to exceed the amount of that
20 addition modification. This subparagraph (V) is exempt
21 from the provisions of Section 250;

22 (W) An amount equal to the interest income taken
23 into account for the taxable year (net of the
24 deductions allocable thereto) with respect to
25 transactions with (i) a foreign person who would be a
26 member of the taxpayer's unitary business group but for

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

16 (X) An amount equal to the income from intangible
17 property taken into account for the taxable year (net
18 of the 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(b)(2)(E-13) for
7 intangible expenses and costs paid, accrued, or
8 incurred, directly or indirectly, to the same foreign
9 person. This subparagraph (X) is exempt from the
10 provisions of Section 250; and ~~(Y)~~

11 (Y) To the extent properly includable in the gross
12 income for federal income tax purposes of a designated
13 beneficiary, as defined in the Homecare Option Program
14 for the Elderly Act, an amount equal to the interest
15 earned on contributions to accounts established for
16 the designated beneficiary pursuant to that Act.

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

21 (c) Trusts and estates.

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

25 (2) Modifications. Subject to the provisions of

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

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

8 (B) In the case of (i) an estate, \$600; (ii) a
9 trust which, under its governing instrument, is
10 required to distribute all of its income currently,
11 \$300; and (iii) any other trust, \$100, but in each such
12 case, only to the extent such amount was deducted in
13 the computation of taxable income;

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

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

21 (E) For taxable years in which a net operating loss
22 carryback or carryforward from a taxable year ending
23 prior to December 31, 1986 is an element of taxable
24 income under paragraph (1) of subsection (e) or
25 subparagraph (E) of paragraph (2) of subsection (e),
26 the amount by which addition modifications other than

1 those provided by this subparagraph (E) exceeded
2 subtraction modifications in such taxable year, with
3 the following limitations applied in the order that
4 they are listed:

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

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

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

25 (F) For taxable years ending on or after January 1,
26 1989, an amount equal to the tax deducted pursuant to

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

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

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

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

19 (G-11) If the taxpayer sells, transfers, abandons,
20 or otherwise disposes of property for which the
21 taxpayer was required in any taxable year to make an
22 addition modification under subparagraph (G-10), then
23 an amount equal to the aggregate amount of the
24 deductions taken in all taxable years under
25 subparagraph (R) with respect to that property.

26 If the taxpayer continues to own property through

1 the last day of the last tax year for which the
2 taxpayer may claim a depreciation deduction for
3 federal income tax purposes and for which the taxpayer
4 was allowed in any taxable year to make a subtraction
5 modification under subparagraph (R), then an amount
6 equal to that subtraction modification.

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

10 (G-12) An amount equal to the amount otherwise
11 allowed as a deduction in computing base income for
12 interest paid, accrued, or incurred, directly or
13 indirectly, (i) for taxable years ending on or after
14 December 31, 2004, to a foreign person who would be a
15 member of the same unitary business group but for the
16 fact that the foreign person's business activity
17 outside the United States is 80% or more of the foreign
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. The addition modification
26 required by this subparagraph shall be reduced to the

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

11 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the

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

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

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

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

22 This paragraph shall not apply to the following:

23 (i) any item of intangible expenses or costs
24 paid, accrued, or incurred, directly or
25 indirectly, from a transaction with a person who is
26 subject in a foreign country or state, other than a

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

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

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

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

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

1 method of apportionment under Section 304(f);

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

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

1 (including amounts included in gross income under
2 Sections 951 through 964 of the Internal Revenue Code
3 and amounts included in gross income under Section 78
4 of the Internal Revenue Code) with respect to the stock
5 of the same person to whom the premiums and costs were
6 directly or indirectly paid, incurred, or accrued. The
7 preceding sentence does not apply to the extent that
8 the same dividends caused a reduction to the addition
9 modification required under Section 203(c)(2)(G-12) or
10 Section 203(c)(2)(G-13) of this Act.

11 and by deducting from the total so obtained the sum of the
12 following amounts:

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

24 (I) The valuation limitation amount;

25 (J) An amount equal to the amount of any tax
26 imposed by this Act which was refunded to the taxpayer

1 and included in such total for the taxable year;

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

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

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

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

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

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

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

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

1 Germany or any other Axis regime or as an heir of the
2 victim. The amount of and the eligibility for any
3 public assistance, benefit, or similar entitlement is
4 not affected by the inclusion of items (i) and (ii) of
5 this paragraph in gross income for federal income tax
6 purposes. This paragraph is exempt from the provisions
7 of Section 250;

8 (R) For taxable years 2001 and thereafter, for the
9 taxable year in which the bonus depreciation deduction
10 is taken on the taxpayer's federal income tax return
11 under subsection (k) of Section 168 of the Internal
12 Revenue Code and for each applicable taxable year
13 thereafter, an amount equal to "x", where:

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

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

25 (3) for taxable years ending after December
26 31, 2005:

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

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

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

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

23 If the taxpayer continues to own property through
24 the last day of the last tax year for which the
25 taxpayer may claim a depreciation deduction for
26 federal income tax purposes and for which the taxpayer

1 was required in any taxable year to make an addition
2 modification under subparagraph (G-10), then an amount
3 equal to that addition modification.

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

7 This subparagraph (S) is exempt from the
8 provisions of Section 250;

9 (T) The amount of (i) any interest income (net of
10 the deductions allocable thereto) taken into account
11 for the taxable year with respect to a transaction with
12 a taxpayer that is required to make an addition
13 modification with respect to such transaction under
14 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
15 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
16 the amount of such addition modification and (ii) any
17 income from intangible property (net of the deductions
18 allocable thereto) taken into account for the taxable
19 year with respect to a transaction with a taxpayer that
20 is required to make an addition modification with
21 respect to such transaction under Section
22 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
23 203(d)(2)(D-8), but not to exceed the amount of such
24 addition modification. This subparagraph (T) is exempt
25 from the provisions of Section 250;

26 (U) An amount equal to the interest income taken

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

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

1 person's total business activity and (ii) for taxable
2 years ending on or after December 31, 2008, to a person
3 who would be a member of the same unitary business
4 group but for the fact that the person is prohibited
5 under Section 1501(a)(27) from being included in the
6 unitary business group because he or she is ordinarily
7 required to apportion business income under different
8 subsections of Section 304, but not to exceed the
9 addition modification required to be made for the same
10 taxable year under Section 203(c)(2)(G-13) for
11 intangible expenses and costs paid, accrued, or
12 incurred, directly or indirectly, to the same foreign
13 person. This subparagraph (V) is exempt from the
14 provisions of Section 250; and ~~-(W)~~

15 (W) To the extent properly includable in the gross
16 income for federal income tax purposes of a designated
17 beneficiary, as defined in the Homecare Option Program
18 for the Elderly Act, an amount equal to the interest
19 earned on contributions to accounts established for
20 the designated beneficiary pursuant to that Act.

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

1 Code Section 642(c) during the taxable year.

2 (d) Partnerships.

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

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

9 (A) An amount equal to all amounts paid or accrued
10 to the taxpayer as interest or dividends during the
11 taxable year to the extent excluded from gross income
12 in the computation of taxable income;

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

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

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

23 (D-5) For taxable years 2001 and thereafter, an
24 amount equal to the bonus depreciation deduction taken
25 on the taxpayer's federal income tax return for the

1 taxable year under subsection (k) of Section 168 of the
2 Internal Revenue Code;

3 (D-6) If the taxpayer sells, transfers, abandons,
4 or otherwise disposes of property for which the
5 taxpayer was required in any taxable year to make an
6 addition modification under subparagraph (D-5), then
7 an amount equal to the aggregate amount of the
8 deductions taken in all taxable years under
9 subparagraph (O) with respect to that property.

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

17 The taxpayer is required to make the addition
18 modification under this subparagraph only once with
19 respect to any one piece of property;

20 (D-7) An amount equal to the amount otherwise
21 allowed as a deduction in computing base income for
22 interest paid, accrued, or incurred, directly or
23 indirectly, (i) for taxable years ending on or after
24 December 31, 2004, to a foreign person who would be a
25 member of the same unitary business group but for the
26 fact the foreign person's business activity outside

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

21 This paragraph shall not apply to the following:

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

1 with respect to such interest; or

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

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

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

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

23 (iv) an item of interest paid, accrued, or
24 incurred, directly or indirectly, to a person if
25 the taxpayer establishes by clear and convincing
26 evidence that the adjustments are unreasonable; or

1 if the taxpayer and the Director agree in writing
2 to the application or use of an alternative method
3 of apportionment under Section 304(f).

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

13 (D-8) An amount equal to the amount of intangible
14 expenses and costs otherwise allowed as a deduction in
15 computing base income, and that were paid, accrued, or
16 incurred, directly or indirectly, (i) for taxable
17 years ending on or after December 31, 2004, to a
18 foreign person who would be a member of the same
19 unitary business group but for the fact that the
20 foreign person's business activity outside the United
21 States is 80% or more of that person's total business
22 activity and (ii) for taxable years ending on or after
23 December 31, 2008, to a person who would be a member of
24 the same unitary business group but for the fact that
25 the person is prohibited under Section 1501(a)(27)
26 from being included in the unitary business group

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

1 similar expenses and costs. For purposes of this
2 subparagraph, "intangible property" includes patents,
3 patent applications, trade names, trademarks, service
4 marks, copyrights, mask works, trade secrets, and
5 similar types of intangible assets;

6 This paragraph shall not apply to the following:

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

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

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

23 (b) the transaction giving rise to the
24 intangible expense or cost between the
25 taxpayer and the person did not have as a
26 principal purpose the avoidance of Illinois

1 income tax, and is paid pursuant to a contract
2 or agreement that reflects arm's-length terms;
3 or

4 (iii) any item of intangible expense or cost
5 paid, accrued, or incurred, directly or
6 indirectly, from a transaction with a person if the
7 taxpayer establishes by clear and convincing
8 evidence, that the adjustments are unreasonable;
9 or if the taxpayer and the Director agree in
10 writing to the application or use of an alternative
11 method 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-9) For taxable years ending on or after December
22 31, 2008, an amount equal to the amount of insurance
23 premium expenses and costs otherwise allowed as a
24 deduction in computing base income, and that were paid,
25 accrued, or incurred, directly or indirectly, to a
26 person who would be a member of the same unitary

1 business group but for the fact that the person is
2 prohibited under Section 1501(a)(27) from being
3 included in the unitary business group because he or
4 she is ordinarily required to apportion business
5 income under different subsections of Section 304. The
6 addition modification required by this subparagraph
7 shall be reduced to the extent that dividends were
8 included in base income of the unitary group for the
9 same taxable year and received by the taxpayer or by a
10 member of the taxpayer's unitary business group
11 (including amounts included in gross income under
12 Sections 951 through 964 of the Internal Revenue Code
13 and amounts included in gross income under Section 78
14 of the Internal Revenue Code) with respect to the stock
15 of the same person to whom the premiums and costs were
16 directly or indirectly paid, incurred, or accrued. The
17 preceding sentence does not apply to the extent that
18 the same dividends caused a reduction to the addition
19 modification required under Section 203(d)(2)(D-7) or
20 Section 203(d)(2)(D-8) of this Act.

21 and by deducting from the total so obtained the following
22 amounts:

23 (E) The valuation limitation amount;

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

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

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

24 (J) With the exception of any amounts subtracted
25 under subparagraph (G), an amount equal to the sum of
26 all amounts disallowed as deductions by (i) Sections

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

11 (K) An amount equal to those dividends included in
12 such total which were paid by a corporation which
13 conducts business operations in an Enterprise Zone or
14 zones created under the Illinois Enterprise Zone Act,
15 enacted by the 82nd General Assembly, or a River Edge
16 Redevelopment Zone or zones created under the River
17 Edge Redevelopment Zone Act and conducts substantially
18 all of its operations in an Enterprise Zone or Zones or
19 from a River Edge Redevelopment Zone or zones. This
20 subparagraph (K) is exempt from the provisions of
21 Section 250;

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

25 (M) An amount equal to those dividends included in
26 such total that were paid by a corporation that

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

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

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

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

26 (2) for taxable years ending on or before

1 December 31, 2005, "x" equals "y" multiplied by 30
2 and then divided by 70 (or "y" multiplied by
3 0.429); and

4 (3) for taxable years ending after December
5 31, 2005:

6 (i) for property on which a bonus
7 depreciation deduction of 30% of the adjusted
8 basis was taken, "x" equals "y" multiplied by
9 30 and then divided by 70 (or "y" multiplied by
10 0.429); and

11 (ii) for property on which a bonus
12 depreciation deduction of 50% of the adjusted
13 basis was taken, "x" equals "y" multiplied by
14 1.0.

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

23 (P) If the taxpayer sells, transfers, abandons, or
24 otherwise disposes of property for which the taxpayer
25 was required in any taxable year to make an addition
26 modification under subparagraph (D-5), then an amount

1 equal to that addition modification.

2 If the taxpayer continues to own property through
3 the last day of the last tax year for which the
4 taxpayer may claim a depreciation deduction for
5 federal income tax purposes and for which the taxpayer
6 was required in any taxable year to make an addition
7 modification under subparagraph (D-5), then an amount
8 equal to that addition modification.

9 The taxpayer is allowed to take the deduction under
10 this subparagraph only once with respect to any one
11 piece of property.

12 This subparagraph (P) is exempt from the
13 provisions of Section 250;

14 (Q) 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 such 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 such
3 addition modification. This subparagraph (Q) is exempt
4 from Section 250;

5 (R) 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(d)(2)(D-7) for interest
22 paid, accrued, or incurred, directly or indirectly, to
23 the same person. This subparagraph (R) is exempt from
24 Section 250; ~~and~~

25 (S) 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(d)(2)(D-8) for
16 intangible expenses and costs paid, accrued, or
17 incurred, directly or indirectly, to the same person.
18 This subparagraph (S) is exempt from Section 250; and ~~and~~
19 ~~(T)~~

20 (T) To the extent properly includable in the gross
21 income for federal income tax purposes of a designated
22 beneficiary, as defined in the Homecare Option Program
23 for the Elderly Act, an amount equal to the interest
24 earned on contributions to accounts established for
25 the designated beneficiary pursuant to that Act.

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

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

1 addition modification must be made under those
2 subparagraphs for any other taxable year to which the
3 taxable income less than zero (net operating loss) is
4 applied under Section 172 of the Internal Revenue Code or
5 under subparagraph (E) of paragraph (2) of this subsection
6 (e) applied in conjunction with Section 172 of the Internal
7 Revenue Code.

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

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

18 (B) Certain other insurance companies. In the case
19 of mutual insurance companies subject to the tax
20 imposed by Section 831 of the Internal Revenue Code,
21 insurance company taxable income;

22 (C) Regulated investment companies. In the case of
23 a regulated investment company subject to the tax
24 imposed by Section 852 of the Internal Revenue Code,
25 investment company taxable income;

26 (D) Real estate investment trusts. In the case of a

1 real estate investment trust subject to the tax imposed
2 by Section 857 of the Internal Revenue Code, real
3 estate investment trust taxable income;

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

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

21 (G) Subchapter S corporations. In the case of: (i)
22 a Subchapter S corporation for which there is in effect
23 an election for the taxable year under Section 1362 of
24 the Internal Revenue Code, the taxable income of such
25 corporation determined in accordance with Section
26 1363(b) of the Internal Revenue Code, except that

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

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

18 (3) Recapture of business expenses on disposition of
19 asset or business. Notwithstanding any other law to the
20 contrary, if in prior years income from an asset or
21 business has been classified as business income and in a
22 later year is demonstrated to be non-business income, then
23 all expenses, without limitation, deducted in such later
24 year and in the 2 immediately preceding taxable years
25 related to that asset or business that generated the
26 non-business income shall be added back and recaptured as

1 business income in the year of the disposition of the asset
2 or business. Such amount shall be apportioned to Illinois
3 using the greater of the apportionment fraction computed
4 for the business under Section 304 of this Act for the
5 taxable year or the average of the apportionment fractions
6 computed for the business under Section 304 of this Act for
7 the taxable year and for the 2 immediately preceding
8 taxable years.

9 (f) Valuation limitation amount.

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

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

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

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

2 (A) If the fair market value of property referred
3 to in paragraph (1) was readily ascertainable on August
4 1, 1969, the pre-August 1, 1969 appreciation amount for
5 such property is the lesser of (i) the excess of such
6 fair market value over the taxpayer's basis (for
7 determining gain) for such property on that date
8 (determined under the Internal Revenue Code as in
9 effect on that date), or (ii) the total gain realized
10 and reportable for federal income tax purposes in
11 respect of the sale, exchange or other disposition of
12 such property.

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

24 (C) The Department shall prescribe such
25 regulations as may be necessary to carry out the
26 purposes of this paragraph.

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

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

13 (Source: P.A. 94-776, eff. 5-19-06; 94-789, eff. 5-19-06;
14 94-1021, eff. 7-12-06; 94-1074, eff. 12-26-06; 95-23, eff.
15 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331,
16 eff. 8-21-07; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08;
17 revised 10-15-08.)

18 Section 95. The Illinois Securities Law of 1953 is amended
19 by changing Section 3 as follows:

20 (815 ILCS 5/3) (from Ch. 121 1/2, par. 137.3)

21 Sec. 3. The provisions of Sections 2a, 5, 6 and 7 of this
22 Act shall not apply to any of the following securities:

1 A. Any security (including a revenue obligation) issued or
2 guaranteed by the United States, any state, any political
3 subdivision of a state, or any agency or corporation or other
4 instrumentality of any one or more of the foregoing, or any
5 certificate of deposit for any such security.

6 B. Any security issued or guaranteed by Canada, any
7 Canadian province, any political subdivision of any such
8 province, any agency or corporation or other instrumentality of
9 one or more of the foregoing, or any other foreign government
10 with which the United States then maintains diplomatic
11 relations, if the security is recognized as a valid obligation
12 by the issuer or guarantor.

13 C. (1) Any security issued by and representing an interest
14 in or a debt of, or guaranteed by, any bank or savings bank,
15 bank holding company, or credit union organized under the laws
16 of the United States, or any bank, savings bank, savings
17 institution or trust company organized and supervised under the
18 laws of any state, or any interest or participation in any
19 common trust fund or similar fund maintained by any such bank,
20 savings bank, savings institution or trust company exclusively
21 for the collective investment and reinvestment of assets
22 contributed thereto by such bank, savings bank, savings
23 institution or trust company or any affiliate thereof, in its
24 capacity as fiduciary, trustee, executor, administrator or
25 guardian.

26 (2) Any security issued or guaranteed to both principal and

1 interest by an international bank of which the United States is
2 a member.

3 D. (1) Any security issued by and representing an interest
4 in or a debt of, or guaranteed by, any federal savings and loan
5 association, or any savings and loan association or building
6 and loan association organized and supervised under the laws of
7 any state.

8 (2) Any security issued or guaranteed by any federal credit
9 union or any credit union, industrial loan association, or
10 similar organization organized and supervised under the laws of
11 any state.

12 E. Any security issued or guaranteed by any railroad, other
13 common carrier, public utility or holding company where such
14 issuer or guarantor is subject to the jurisdiction of the
15 Interstate Commerce Commission or successor entity, or is a
16 registered holding company under the Public Utility Holding
17 Company Act of 1935 or a subsidiary of such a company within
18 the meaning of that Act, or is regulated in respect of its
19 rates and charges by a governmental authority of the United
20 States or any state, or is regulated in respect of the issuance
21 or guarantee of the security by a governmental authority of the
22 United States, any state, Canada, or any Canadian province.

23 F. Equipment trust certificates in respect of equipment
24 leased or conditionally sold to a person, if securities issued
25 by such person would be exempt under subsection E of this
26 Section.

1 G. Any security which at the time of sale is listed or
2 approved for listing upon notice of issuance on the New York
3 Stock Exchange, Inc., the American Stock Exchange, Inc., the
4 Pacific Stock Exchange, Inc., the Chicago Stock Exchange, Inc.,
5 the Chicago Board of Trade, the Philadelphia Stock Exchange,
6 Inc., the Chicago Board Options Exchange, Incorporated, the
7 National Market System of the Nasdaq Stock Market, or any other
8 exchange, automated quotation system or board of trade which
9 the Secretary of State, by rule or regulation, deems to have
10 substantially equivalent standards for listing or designation
11 as required by any such exchange, automated quotation system or
12 board of trade; and securities senior or of substantially equal
13 rank, both as to dividends or interest and upon liquidation, to
14 securities so listed or designated; and warrants and rights to
15 purchase any of the foregoing; provided, however, that this
16 subsection G shall not apply to investment fund shares or
17 securities of like character, which are being continually
18 offered at a price or prices determined in accordance with a
19 prescribed formula.

20 The Secretary of State may, after notice and opportunity
21 for hearing, revoke the exemption afforded by this subparagraph
22 with respect to any securities by issuing an order if the
23 Secretary of State finds that the further sale of the
24 securities in this State would work or tend to work a fraud on
25 purchasers of the securities.

26 H. Any security issued by a person organized and operated

1 not for pecuniary profit and exclusively for religious,
2 educational, benevolent, fraternal, agricultural, charitable,
3 athletic, professional, trade, social or reformatory purposes,
4 or as a chamber of commerce or local industrial development
5 corporation, or for more than one of said purposes and no part
6 of the net earnings of which inures to the benefit of any
7 private stockholder or member.

8 I. Instruments evidencing indebtedness under an agreement
9 for the acquisition of property under contract of conditional
10 sale.

11 J. A note secured by a first mortgage upon tangible
12 personal or real property when such mortgage is made, assigned,
13 sold, transferred and delivered with such note or other written
14 obligation secured by such mortgage, either to or for the
15 benefit of the purchaser or lender; or bonds or notes not more
16 than 10 in number secured by a first mortgage upon the title in
17 fee simple to real property if the aggregate principal amount
18 secured by such mortgage does not exceed \$500,000 and also does
19 not exceed 75% of the fair market value of such real property.

20 K. A note or notes not more than 10 in number secured by a
21 junior mortgage lien if the aggregate principal amount of the
22 indebtedness represented thereby does not exceed 50% of the
23 amount of the then outstanding prior lien indebtedness and
24 provided that the total amount of the indebtedness (including
25 the indebtedness represented by the subject junior mortgage
26 note or notes) shall not exceed 90% of the fair market value of

1 the property securing such indebtedness; and provided further
2 that each such note or notes shall bear across the face thereof
3 the following legend in letters at least as large as 12 point
4 type: "THIS NOTE IS SECURED BY A JUNIOR MORTGAGE".

5 L. Any negotiable promissory note or draft, bill of
6 exchange or bankers' acceptance which arises out of a current
7 transaction or the proceeds of which have been or are to be
8 used for current transactions, and which evidences an
9 obligation to pay cash within 9 months of the date of issuance
10 exclusive of days of grace, or any renewal of such note, draft,
11 bill or acceptance which is likewise limited, or any guarantee
12 of such note, draft, bill or acceptance or of any such renewal,
13 provided that the note, draft, bill, or acceptance is a
14 negotiable security eligible for discounting by banks that are
15 members of the Federal Reserve System. Any instrument exempted
16 under this subsection from the requirement of Sections 5, 6,
17 and 7 of this Act shall bear across the face thereof the
18 following legend in letters at least as large as 12 point type:
19 "THIS INSTRUMENT IS NEITHER GUARANTEED, NOR IS THE ISSUANCE
20 THEREOF REGULATED BY ANY AGENCY OR DEPARTMENT OF THE STATE OF
21 ILLINOIS OR THE UNITED STATES.". However, the foregoing legend
22 shall not be required with respect to any such instrument:

23 (i) sold to a person described in subsection C or H of
24 Section 4 of this Act;

25 (ii) sold to a "Qualified Institutional Buyer" as that
26 term is defined in Rule 144a adopted under the Securities

1 Act of 1933;

2 (iii) where the minimum initial subscription for the
3 purchase of such instrument is \$100,000 or more; or

4 (iv) issued by an issuer that has any class of
5 securities registered under Section 12 of the Securities
6 Exchange Act of 1934 or has any outstanding class of
7 indebtedness rated in one of the 3 highest categories by a
8 rating agency designated by the Department;

9 M. Any security issued by and representing an interest in
10 or a debt of, or guaranteed by, any insurance company organized
11 under the laws of any state.

12 N. Any security issued pursuant to (i) a written
13 compensatory benefit plan (including without limitation, any
14 purchase, savings, option, bonus, stock appreciation, profit
15 sharing, thrift, incentive, pension, or similar plan) and
16 interests in such plans established by one or more of the
17 issuers thereof or its parents or majority-owned subsidiaries
18 for the participation of their employees, directors, general
19 partners, trustees (where the issuer is a business trust),
20 officers, or consultants or advisers of such issuers or its
21 parents or majority-owned subsidiaries, provided that bona
22 fide services are rendered by consultants or advisers and those
23 services are not in connection with the offer and sale of
24 securities in a capital-raising transaction or (ii) a written
25 contract relating to the compensation of any such person.

26 O. Any option, put, call, spread or straddle issued by a

1 clearing agency registered as such under the Federal 1934 Act,
2 if the security, currency, commodity, or other interest
3 underlying the option, put, call, spread or straddle is not
4 required to be registered under Section 5.

5 P. Any security which meets all of the following
6 conditions:

7 (1) If the issuer is not organized under the laws of
8 the United States or a state, it has appointed a duly
9 authorized agent in the United States for service of
10 process and has set forth the name and address of the agent
11 in its prospectus.

12 (2) A class of the issuer's securities is required to
13 be and is registered under Section 12 of the Federal 1934
14 Act, and has been so registered for the three years
15 immediately preceding the offering date.

16 (3) Neither the issuer nor a significant subsidiary has
17 had a material default during the last seven years, or for
18 the period of the issuer's existence if less than seven
19 years, in the payment of (i) principal, interest, dividend,
20 or sinking fund installment on preferred stock or
21 indebtedness for borrowed money, or (ii) rentals under
22 leases with terms of three years or more.

23 (4) The issuer has had consolidated net income, before
24 extraordinary items and the cumulative effect of
25 accounting changes, of at least \$1,000,000 in four of its
26 last five fiscal years including its last fiscal year; and

1 if the offering is of interest bearing securities, has had
2 for its last fiscal year, net income, before deduction for
3 income taxes and depreciation, of at least 1-1/2 times the
4 issuer's annual interest expense, giving effect to the
5 proposed offering and the intended use of the proceeds. For
6 the purposes of this clause "last fiscal year" means the
7 most recent year for which audited financial statements are
8 available, provided that such statements cover a fiscal
9 period ended not more than 15 months from the commencement
10 of the offering.

11 (5) If the offering is of stock or shares other than
12 preferred stock or shares, the securities have voting
13 rights and the rights include (i) the right to have at
14 least as many votes per share, and (ii) the right to vote
15 on at least as many general corporate decisions, as each of
16 the issuer's outstanding classes of stock or shares, except
17 as otherwise required by law.

18 (6) If the offering is of stock or shares, other than
19 preferred stock or shares, the securities are owned
20 beneficially or of record, on any date within six months
21 prior to the commencement of the offering, by at least
22 1,200 persons, and on that date there are at least 750,000
23 such shares outstanding with an aggregate market value,
24 based on the average bid price for that day, of at least
25 \$3,750,000. In connection with the determination of the
26 number of persons who are beneficial owners of the stock or

1 shares of an issuer, the issuer or dealer may rely in good
2 faith for the purposes of this clause upon written
3 information furnished by the record owners.

4 (7) The issuer meets the conditions specified in
5 paragraphs (2), (3) and (4) of this subsection P if either
6 the issuer or the issuer and the issuer's predecessor,
7 taken together, meet such conditions and if: (a) the
8 succession was primarily for the purpose of changing the
9 state of incorporation of the predecessor or forming a
10 holding company and the assets and liabilities of the
11 successor at the time of the succession were substantially
12 the same as those of the predecessor; or (b) all
13 predecessors met such conditions at the time of succession
14 and the issuer has continued to do so since the succession.

15 Q. Any security appearing on the List of OTC Margin Stocks
16 published by the Board of Governors of the Federal Reserve
17 System or any security incorporated by reference to the List of
18 OTC Margin Stocks by the Board of Governors of the Federal
19 Reserve System; any other securities of the same issuer which
20 are of senior or substantially equal rank; any securities
21 called for by subscription rights or warrants so listed or
22 approved; or any warrants or rights to purchase or subscribe to
23 any of the foregoing.

24 R. Any security issued by a bona fide agricultural
25 cooperative operating in this State that is organized under the
26 laws of this State or as a foreign cooperative association

1 organized under the law of another state that has been duly
2 qualified to transact business in this State.

3 S. Any participation in the trust established under the
4 Homecare Option for the Elderly Act, and any offering and
5 solicitation of the trust.

6 (Source: P.A. 90-70, eff. 7-8-97; 91-809, eff. 1-1-01.)