



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB1467

Introduced 2/7/2023, by Sen. David Koehler

#### SYNOPSIS AS INTRODUCED:

See Index

Creates the Illinois Fertility Fraud Act. Allows the following individuals to bring an action against any health care provider, embryologist, or any other person involved in any stage of the treatment who knowingly or intentionally used the health care provider's, embryologist's, or person's own human reproductive material without the patient's informed written consent to treatment using the health care provider's, embryologist's, or person's human reproductive material: a woman who gives birth to a child after receiving assisted reproductive treatment or any other artificial means used to cause pregnancy; the spouse of the woman; the surviving spouse of the woman; or a child born as a result of the treatment. Allows a donor of human reproductive material to bring an action against a health care provider under certain circumstances. Provides that a plaintiff who prevails in an action is entitled to reasonable attorney's fees and compensatory and punitive damages or liquidated damages of \$50,000. Provides that any child born as a result of the fertility fraud is entitled to a qualified protective order allowing the child access to the personal medical records and health history of the health care provider, embryologist, or other person who committed the fraud. Amends the Illinois Income Tax Act. Includes in the list of modifications of a taxpayer's adjusted gross income for the taxable year, to the extent includible in gross income for federal income tax purposes, any amount awarded or paid to the taxpayer as a result of a judgment or settlement for fertility fraud. Amends the Criminal Code of 2012. Provides that a person commits criminal sexual assault if that person is a health care provider who knowingly or intentionally provides assisted reproductive treatment to a patient by using the health care provider's own spermatozoon or ovum without the patient's informed written consent to treatment using the health care provider's spermatozoon or ovum. Amends the Code of Civil Procedure. Provides that an action for fertility fraud must be commenced within the later of 20 years after specified events.

LRB103 28709 LNS 55091 b

A BILL FOR

1 AN ACT concerning civil law.

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 Illinois Fertility Fraud Act.

6 Section 5. Legislative intent. The General Assembly finds  
7 that fertility fraud, or the assisted reproductive treatment  
8 of a patient using the health care provider's own human  
9 reproductive material without the patient's informed written  
10 consent, has caused significant harm and had a severe negative  
11 impact on residents of this State including former patients  
12 and their children. This conduct has never constituted or  
13 complied with the medical standard of care and violates  
14 doctor-patient trust. Often discovering the fraud through DNA  
15 testing many years later, these individuals must now cope with  
16 knowing that their bodies and autonomy were violated, grapple  
17 with the sexual nature of the conduct, and negotiate identity  
18 issues and changing family relationships. Therefore, it is the  
19 intent of the General Assembly that any civil action  
20 authorized by this Act shall be retroactive and apply to any  
21 treatment by a health care provider occurring prior to the  
22 effective date of this Act.

1 Section 10. Definitions. As used in this Act:

2 "Assisted reproductive treatment" means a method of  
3 causing pregnancy by any means other than through sexual  
4 intercourse, including:

- 5 (1) intrauterine or intracervical insemination;
- 6 (2) donation of eggs or sperm;
- 7 (3) donation of embryos;
- 8 (4) in vitro fertilization and embryo transfer; and
- 9 (5) intracytoplasmic sperm injection.

10 "Health care" means any phase of patient care, including,  
11 but not limited to: testing; diagnosis; prognosis; ancillary  
12 research; instructions; assisted reproduction; family  
13 planning, counseling, referrals, or any other advice in  
14 connection with conception; surgery or other care or treatment  
15 rendered by a physician, nurse, paraprofessional, or health  
16 care facility, intended for the physical, emotional, and  
17 mental well-being of persons.

18 "Health care provider" means a physician, physician  
19 assistant, advanced practice registered nurse, registered  
20 nurse, licensed practical nurse, any individual licensed under  
21 the laws of this State to provide health care, or any  
22 individual who handles human reproductive material in a health  
23 care setting.

24 "Human reproductive material" means:

- 25 (1) a human spermatozoon or ovum; or
- 26 (2) a human organism at any stage of development from

1 fertilized ovum to embryo.

2 "In vitro fertilization" means all medical and laboratory  
3 procedures that are necessary to effectuate the extracorporeal  
4 fertilization of egg and sperm.

5 "Physician" means a person licensed to practice medicine  
6 in all its branches in this State.

7 Section 15. Fertility fraud. The following individuals may  
8 bring an action against any health care provider,  
9 embryologist, or any other person involved in any stage of the  
10 treatment who knowingly or intentionally used the health care  
11 provider's, embryologist's, or person's own human reproductive  
12 material without the patient's informed written consent to  
13 treatment using the health care provider's, embryologist's, or  
14 person's human reproductive material:

15 (1) a woman who gives birth to a child after receiving  
16 assisted reproductive treatment or any other artificial  
17 means used to cause pregnancy;

18 (2) the spouse of a woman under paragraph (1);

19 (3) the surviving spouse of a woman under paragraph  
20 (1); or

21 (4) a child born as a result of the treatment.

22 Section 20. Donor fertility fraud. A donor of human  
23 reproductive material may bring an action against a health  
24 care provider who:

1           (1) treats a patient for infertility by using human  
2           reproductive material donated by the donor; and

3           (2) knows or reasonably should have known that the  
4           human reproductive material was used:

5                   (A) without the donor's consent; or

6                   (B) in a manner or to an extent other than that to  
7           which the donor consented.

8           Section 25. Rewards. A plaintiff who prevails in an action  
9           under this Act is entitled to reasonable attorney's fees and:

10                   (1) compensatory and punitive damages; or

11                   (2) liquidated damages of \$50,000.

12           A plaintiff who prevails in an action brought under  
13           Section 15 is also entitled to the costs of the fertility  
14           treatment.

15           Section 30. Protective order for access to personal  
16           medical records and health history. Any child born as a result  
17           of the fertility fraud referred to in Section 15 is entitled to  
18           a qualified protective order allowing the child access to the  
19           personal medical records and health history of the health care  
20           provider, embryologist, or other person who committed the  
21           fraud.

22           Section 35. Causes of action.

23           (a) A person who brings an action under Section 15 has a

1 separate cause of action for each child born as the result of  
2 the fraudulent assisted reproductive treatment.

3 (b) A person who brings an action under Section 20 has a  
4 separate cause of action for each individual who received  
5 assisted reproductive treatment with the donor's human  
6 reproductive material.

7 Section 40. Other remedies. Nothing in this Act may be  
8 construed to prohibit a person from pursuing any other remedy  
9 provided by law.

10 Section 45. The Illinois Income Tax Act is amended by  
11 changing Section 203 as follows:

12 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

13 Sec. 203. Base income defined.

14 (a) Individuals.

15 (1) In general. In the case of an individual, base  
16 income means an amount equal to the taxpayer's adjusted  
17 gross income for the taxable year as modified by paragraph  
18 (2).

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

22 (A) An amount equal to all amounts paid or accrued  
23 to the taxpayer as interest or dividends during the

1 taxable year to the extent excluded from gross income  
2 in the computation of adjusted gross income, except  
3 stock dividends of qualified public utilities  
4 described in Section 305(e) of the Internal Revenue  
5 Code;

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

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

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

26 (D-5) An amount, to the extent not included in

1 adjusted gross income, equal to the amount of money  
2 withdrawn by the taxpayer in the taxable year from a  
3 medical care savings account and the interest earned  
4 on the account in the taxable year of a withdrawal  
5 pursuant to subsection (b) of Section 20 of the  
6 Medical Care Savings Account Act or subsection (b) of  
7 Section 20 of the Medical Care Savings Account Act of  
8 2000;

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

14 (D-15) 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  
18 the Internal Revenue Code;

19 (D-16) 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 (D-15), then  
23 an amount equal to the aggregate amount of the  
24 deductions taken in all taxable years under  
25 subparagraph (Z) 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 a  
2 subtraction is allowed with respect to that property  
3 under subparagraph (Z) and for which the taxpayer was  
4 allowed in any taxable year to make a subtraction  
5 modification under subparagraph (Z), 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 (D-17) 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 foreign person's business activity outside  
17 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 under Sections 951 through  
6 964 of the Internal Revenue Code and amounts included  
7 in gross income under Section 78 of the Internal  
8 Revenue Code) with respect to the stock of the same  
9 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  
10 or agreement entered into at arm's-length rates  
11 and terms and the principal purpose for the  
12 payment is not federal or Illinois tax avoidance;  
13 or

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

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

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

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

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

23 This paragraph shall not apply to the following:

24 (i) any item of intangible expenses or costs  
25 paid, accrued, or incurred, directly or  
26 indirectly, from a transaction with a person who

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

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

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

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

20 or

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

1 writing to the application or use of an  
2 alternative method of apportionment under Section  
3 304(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  
7 for any tax year beginning after the effective  
8 date of this amendment provided such adjustment is  
9 made pursuant to regulation adopted by the  
10 Department and such regulations provide methods  
11 and standards by which the Department will utilize  
12 its authority 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  
7 stock of the same person to whom the premiums and costs  
8 were directly or indirectly paid, incurred, or  
9 accrued. The preceding sentence does not apply to the  
10 extent that the same dividends caused a reduction to  
11 the addition modification required under Section  
12 203(a)(2)(D-17) or Section 203(a)(2)(D-18) of this  
13 Act;

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



1 from a College Savings Pool created under Section 16.5  
2 of the State Treasurer Act, (ii) a distribution from  
3 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
4 distribution from a qualified tuition program under  
5 Section 529 of the Internal Revenue Code that (I)  
6 adopts and determines that its offering materials  
7 comply with the College Savings Plans Network's  
8 disclosure principles and (II) has made reasonable  
9 efforts to inform in-state residents of the existence  
10 of in-state qualified tuition programs by informing  
11 Illinois residents directly and, where applicable, to  
12 inform financial intermediaries distributing the  
13 program to inform in-state residents of the existence  
14 of in-state qualified tuition programs at least  
15 annually, an amount equal to the amount excluded from  
16 gross income under Section 529(c)(3)(B).

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

1 out-of-state program distributes its offering  
2 materials;

3 (D-20.5) For taxable years beginning on or after  
4 January 1, 2018, in the case of a distribution from a  
5 qualified ABLE program under Section 529A of the  
6 Internal Revenue Code, other than a distribution from  
7 a qualified ABLE program created under Section 16.6 of  
8 the State Treasurer Act, an amount equal to the amount  
9 excluded from gross income under Section 529A(c)(1)(B)  
10 of the Internal Revenue Code;

11 (D-21) For taxable years beginning on or after  
12 January 1, 2007, in the case of transfer of moneys from  
13 a qualified tuition program under Section 529 of the  
14 Internal Revenue Code that is administered by the  
15 State to an out-of-state program, an amount equal to  
16 the amount of moneys previously deducted from base  
17 income under subsection (a)(2)(Y) of this Section;

18 (D-21.5) For taxable years beginning on or after  
19 January 1, 2018, in the case of the transfer of moneys  
20 from a qualified tuition program under Section 529 or  
21 a qualified ABLE program under Section 529A of the  
22 Internal Revenue Code that is administered by this  
23 State to an ABLE account established under an  
24 out-of-state ABLE account program, an amount equal to  
25 the contribution component of the transferred amount  
26 that was previously deducted from base income under

1 subsection (a)(2)(Y) or subsection (a)(2)(HH) of this  
2 Section;

3 (D-22) For taxable years beginning on or after  
4 January 1, 2009, and prior to January 1, 2018, in the  
5 case of a nonqualified withdrawal or refund of moneys  
6 from a qualified tuition program under Section 529 of  
7 the Internal Revenue Code administered by the State  
8 that is not used for qualified expenses at an eligible  
9 education institution, an amount equal to the  
10 contribution component of the nonqualified withdrawal  
11 or refund that was previously deducted from base  
12 income under subsection (a)(2)(y) of this Section,  
13 provided that the withdrawal or refund did not result  
14 from the beneficiary's death or disability. For  
15 taxable years beginning on or after January 1, 2018:  
16 (1) in the case of a nonqualified withdrawal or  
17 refund, as defined under Section 16.5 of the State  
18 Treasurer Act, of moneys from a qualified tuition  
19 program under Section 529 of the Internal Revenue Code  
20 administered by the State, an amount equal to the  
21 contribution component of the nonqualified withdrawal  
22 or refund that was previously deducted from base  
23 income under subsection (a)(2)(Y) of this Section, and  
24 (2) in the case of a nonqualified withdrawal or refund  
25 from a qualified ABLE program under Section 529A of  
26 the Internal Revenue Code administered by the State

1 that is not used for qualified disability expenses, an  
2 amount equal to the contribution component of the  
3 nonqualified withdrawal or refund that was previously  
4 deducted from base income under subsection (a)(2)(HH)  
5 of this Section;

6 (D-23) An amount equal to the credit allowable to  
7 the taxpayer under Section 218(a) of this Act,  
8 determined without regard to Section 218(c) of this  
9 Act;

10 (D-24) For taxable years ending on or after  
11 December 31, 2017, an amount equal to the deduction  
12 allowed under Section 199 of the Internal Revenue Code  
13 for the taxable year;

14 (D-25) In the case of a resident, an amount equal  
15 to the amount of tax for which a credit is allowed  
16 pursuant to Section 201(p)(7) of this Act;

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

19 (E) For taxable years ending before December 31,  
20 2001, any amount included in such total in respect of  
21 any compensation (including but not limited to any  
22 compensation paid or accrued to a serviceman while a  
23 prisoner of war or missing in action) paid to a  
24 resident by reason of being on active duty in the Armed  
25 Forces of the United States and in respect of any  
26 compensation paid or accrued to a resident who as a

1 governmental employee was a prisoner of war or missing  
2 in action, and in respect of any compensation paid to a  
3 resident in 1971 or thereafter for annual training  
4 performed pursuant to Sections 502 and 503, Title 32,  
5 United States Code as a member of the Illinois  
6 National Guard or, beginning with taxable years ending  
7 on or after December 31, 2007, the National Guard of  
8 any other state. For taxable years ending on or after  
9 December 31, 2001, any amount included in such total  
10 in respect of any compensation (including but not  
11 limited to any compensation paid or accrued to a  
12 serviceman while a prisoner of war or missing in  
13 action) paid to a resident by reason of being a member  
14 of any component of the Armed Forces of the United  
15 States and in respect of any compensation paid or  
16 accrued to a resident who as a governmental employee  
17 was a prisoner of war or missing in action, and in  
18 respect of any compensation paid to a resident in 2001  
19 or thereafter by reason of being a member of the  
20 Illinois National Guard or, beginning with taxable  
21 years ending on or after December 31, 2007, the  
22 National Guard of any other state. The provisions of  
23 this subparagraph (E) are exempt from the provisions  
24 of Section 250;

25 (F) An amount equal to all amounts included in  
26 such total pursuant to the provisions of Sections

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

10 (G) The valuation limitation amount;

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

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

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

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

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

15           (M) With the exception of any amounts subtracted  
16 under subparagraph (N), an amount equal to the sum of  
17 all amounts disallowed as deductions by (i) Sections  
18 171(a)(2) and 265(a)(2) of the Internal Revenue Code,  
19 and all amounts of expenses allocable to interest and  
20 disallowed as deductions by Section 265(a)(1) of the  
21 Internal Revenue Code; and (ii) for taxable years  
22 ending on or after August 13, 1999, Sections  
23 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the  
24 Internal Revenue Code, plus, for taxable years ending  
25 on or after December 31, 2011, Section 45G(e)(3) of  
26 the Internal Revenue Code and, for taxable years

1 ending on or after December 31, 2008, any amount  
2 included in gross income under Section 87 of the  
3 Internal Revenue Code; the provisions of this  
4 subparagraph are exempt from the provisions of Section  
5 250;

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

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

18 (P) An amount equal to the amount of the deduction  
19 used to compute the federal income tax credit for  
20 restoration of substantial amounts held under claim of  
21 right for the taxable year pursuant to Section 1341 of  
22 the Internal Revenue Code or of any itemized deduction  
23 taken from adjusted gross income in the computation of  
24 taxable income for restoration of substantial amounts  
25 held under claim of right for the taxable year;

26 (Q) An amount equal to any amounts included in



1 such total, received by the taxpayer as an  
2 acceleration in the payment of life, endowment or  
3 annuity benefits in advance of the time they would  
4 otherwise be payable as an indemnity for a terminal  
5 illness;

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

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

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

23 (U) For one taxable year beginning on or after  
24 January 1, 1994, an amount equal to the total amount of  
25 tax imposed and paid under subsections (a) and (b) of  
26 Section 201 of this Act on grant amounts received by

1 the taxpayer under the Nursing Home Grant Assistance  
2 Act during the taxpayer's taxable years 1992 and 1993;

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

1 percentage of eligible medical expenses under Section  
2 213 of the Internal Revenue Code of 1986 not actually  
3 deducted on the taxpayer's federal income tax return;

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

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

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

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

1 College Savings Pool account under Section 16.5 of the  
2 State Treasurer Act or (ii) the Illinois Prepaid  
3 Tuition Trust Fund, except that amounts excluded from  
4 gross income under Section 529(c)(3)(C)(i) of the  
5 Internal Revenue Code shall not be considered moneys  
6 contributed under this subparagraph (Y). For purposes  
7 of this subparagraph, contributions made by an  
8 employer on behalf of an employee, or matching  
9 contributions made by an employee, shall be treated as  
10 made by the employee. This subparagraph (Y) is exempt  
11 from the provisions of Section 250;

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

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

25 (2) for taxable years ending on or before  
26 December 31, 2005, "x" equals "y" multiplied by 30

1 and then divided by 70 (or "y" multiplied by  
2 0.429); and

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

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

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

14 (iii) for property on which a bonus  
15 depreciation deduction of 100% of the adjusted  
16 basis was taken in a taxable year ending on or  
17 after December 31, 2021, "x" equals the  
18 depreciation deduction that would be allowed  
19 on that property if the taxpayer had made the  
20 election under Section 168(k)(7) of the  
21 Internal Revenue Code to not claim bonus  
22 depreciation on that property; and

23 (iv) for property on which a bonus  
24 depreciation deduction of a percentage other  
25 than 30%, 50% or 100% of the adjusted basis  
26 was taken in a taxable year ending on or after

1 December 31, 2021, "x" equals "y" multiplied  
2 by 100 times the percentage bonus depreciation  
3 on the property (that is,  $100(\text{bonus}\%)$ ) and  
4 then divided by 100 times 1 minus the  
5 percentage bonus depreciation on the property  
6 (that is,  $100(1-\text{bonus}\%)$ ).

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

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

20 If the taxpayer continues to own property through  
21 the last day of the last tax year for which a  
22 subtraction is allowed with respect to that property  
23 under subparagraph (Z) and for which the taxpayer was  
24 required in any taxable year to make an addition  
25 modification under subparagraph (D-15), then an amount  
26 equal to that addition modification.

1           The taxpayer is allowed to take the deduction  
2 under this subparagraph only once with respect to any  
3 one piece of property.

4           This subparagraph (AA) is exempt from the  
5 provisions of Section 250;

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

9           (CC) 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  
12 with 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 that 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  
20 that 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 that  
24 addition modification. This subparagraph (CC) is  
25 exempt from the provisions of Section 250;

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

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

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

16 (FF) An amount equal to any amount awarded to the  
17 taxpayer during the taxable year by the Court of  
18 Claims under subsection (c) of Section 8 of the Court  
19 of Claims Act for time unjustly served in a State  
20 prison. This subparagraph (FF) is exempt from the  
21 provisions of Section 250;

22 (GG) For taxable years ending on or after December  
23 31, 2011, in the case of a taxpayer who was required to  
24 add back any insurance premiums under Section  
25 203(a)(2)(D-19), such taxpayer may elect to subtract  
26 that part of a reimbursement received from the

1 insurance company equal to the amount of the expense  
2 or loss (including expenses incurred by the insurance  
3 company) that would have been taken into account as a  
4 deduction for federal income tax purposes if the  
5 expense or loss had been uninsured. If a taxpayer  
6 makes the election provided for by this subparagraph  
7 (GG), the insurer to which the premiums were paid must  
8 add back to income the amount subtracted by the  
9 taxpayer pursuant to this subparagraph (GG). This  
10 subparagraph (GG) is exempt from the provisions of  
11 Section 250;

12 (HH) For taxable years beginning on or after  
13 January 1, 2018 and prior to January 1, 2028, a maximum  
14 of \$10,000 contributed in the taxable year to a  
15 qualified ABLE account under Section 16.6 of the State  
16 Treasurer Act, except that amounts excluded from gross  
17 income under Section 529(c)(3)(C)(i) or Section  
18 529A(c)(1)(C) of the Internal Revenue Code shall not  
19 be considered moneys contributed under this  
20 subparagraph (HH). For purposes of this subparagraph  
21 (HH), contributions made by an employer on behalf of  
22 an employee, or matching contributions made by an  
23 employee, shall be treated as made by the employee;  
24 ~~and~~

25 (II) For taxable years that begin on or after  
26 January 1, 2021 and begin before January 1, 2026, the

1 amount that is included in the taxpayer's federal  
2 adjusted gross income pursuant to Section 61 of the  
3 Internal Revenue Code as discharge of indebtedness  
4 attributable to student loan forgiveness and that is  
5 not excluded from the taxpayer's federal adjusted  
6 gross income pursuant to paragraph (5) of subsection  
7 (f) of Section 108 of the Internal Revenue Code; and -

8 (JJ) To the extent includible in gross income for  
9 federal income tax purposes, any amount awarded or  
10 paid to the taxpayer as a result of a judgment or  
11 settlement for fertility fraud as provided in Section  
12 15 of the Illinois Fertility Fraud Act or similar  
13 action in another state.

14 (b) Corporations.

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

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

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

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

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

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

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

1 year, with the following limitations applied in the  
2 order that they are listed:

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

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

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

23 (E-5) For taxable years ending after December 31,  
24 1997, an amount equal to any eligible remediation  
25 costs that the corporation deducted in computing  
26 adjusted gross income and for which the corporation

1 claims a credit under subsection (l) of Section 201;

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

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

14 If the taxpayer continues to own property through  
15 the last day of the last tax year for which a  
16 subtraction is allowed with respect to that property  
17 under subparagraph (T) and for which the taxpayer was  
18 allowed in any taxable year to make a subtraction  
19 modification under subparagraph (T), then an amount  
20 equal to that subtraction modification.

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

24 (E-12) An amount equal to the amount otherwise  
25 allowed as a deduction in computing base income for  
26 interest paid, accrued, or incurred, directly or

1 indirectly, (i) for taxable years ending on or after  
2 December 31, 2004, to a foreign person who would be a  
3 member of the same unitary business group but for the  
4 fact the foreign person's business activity outside  
5 the United States is 80% or more of the foreign  
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. The addition modification  
14 required by this subparagraph shall be reduced to the  
15 extent that dividends were included in base income of  
16 the unitary group for the same taxable year and  
17 received by the taxpayer or by a member of the  
18 taxpayer's unitary business group (including amounts  
19 included in gross income pursuant to Sections 951  
20 through 964 of the Internal Revenue Code and amounts  
21 included in gross income under Section 78 of the  
22 Internal Revenue Code) with respect to the stock of  
23 the same person to whom the interest was paid,  
24 accrued, or incurred.

25 This paragraph shall not apply to the following:

26 (i) an item of interest paid, accrued, or



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

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

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

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

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

1 or

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

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

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

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

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

11 This paragraph shall not apply to the following:

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

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

24 (a) the person during the same taxable  
25 year paid, accrued, or incurred, the  
26 intangible expense or cost to a person that is

1 not a related member, and

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

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

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

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

1 Act;

2 (E-15) For taxable years beginning after December  
3 31, 2008, any deduction for dividends paid by a  
4 captive real estate investment trust that is allowed  
5 to a real estate investment trust under Section  
6 857(b)(2)(B) of the Internal Revenue Code for  
7 dividends paid;

8 (E-16) An amount equal to the credit allowable to  
9 the taxpayer under Section 218(a) of this Act,  
10 determined without regard to Section 218(c) of this  
11 Act;

12 (E-17) For taxable years ending on or after  
13 December 31, 2017, an amount equal to the deduction  
14 allowed under Section 199 of the Internal Revenue Code  
15 for the taxable year;

16 (E-18) for taxable years beginning after December  
17 31, 2018, an amount equal to the deduction allowed  
18 under Section 250(a)(1)(A) of the Internal Revenue  
19 Code for the taxable year;

20 (E-19) for taxable years ending on or after June  
21 30, 2021, an amount equal to the deduction allowed  
22 under Section 250(a)(1)(B)(i) of the Internal Revenue  
23 Code for the taxable year;

24 (E-20) for taxable years ending on or after June  
25 30, 2021, an amount equal to the deduction allowed  
26 under Sections 243(e) and 245A(a) of the Internal

1 Revenue Code for the taxable year.  
2 and by deducting from the total so obtained the sum of the  
3 following amounts:

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

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

9 (H) In the case of a regulated investment company,  
10 an amount equal to the amount of exempt interest  
11 dividends as defined in subsection (b) (5) of Section  
12 852 of the Internal Revenue Code, paid to shareholders  
13 for the taxable year;

14 (I) With the exception of any amounts subtracted  
15 under subparagraph (J), an amount equal to the sum of  
16 all amounts disallowed as deductions by (i) Sections  
17 171(a) (2) and 265(a) (2) and amounts disallowed as  
18 interest expense by Section 291(a) (3) of the Internal  
19 Revenue Code, and all amounts of expenses allocable to  
20 interest and disallowed as deductions by Section  
21 265(a) (1) of the Internal Revenue Code; and (ii) for  
22 taxable years ending on or after August 13, 1999,  
23 Sections 171(a) (2), 265, 280C, 291(a) (3), and  
24 832(b) (5) (B) (i) of the Internal Revenue Code, plus,  
25 for tax years ending on or after December 31, 2011,  
26 amounts disallowed as deductions by Section 45G(e) (3)



1 of the Internal Revenue Code and, for taxable years  
2 ending on or after December 31, 2008, any amount  
3 included in gross income under Section 87 of the  
4 Internal Revenue Code and the policyholders' share of  
5 tax-exempt interest of a life insurance company under  
6 Section 807(a)(2)(B) of the Internal Revenue Code (in  
7 the case of a life insurance company with gross income  
8 from a decrease in reserves for the tax year) or  
9 Section 807(b)(1)(B) of the Internal Revenue Code (in  
10 the case of a life insurance company allowed a  
11 deduction for an increase in reserves for the tax  
12 year); the provisions of this subparagraph are exempt  
13 from the provisions of Section 250;

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

23 (K) An amount equal to those dividends included in  
24 such total which were paid by a corporation which  
25 conducts business operations in a River Edge  
26 Redevelopment Zone or zones created under the River

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

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

14 (M) For any taxpayer that is a financial  
15 organization within the meaning of Section 304(c) of  
16 this Act, an amount included in such total as interest  
17 income from a loan or loans made by such taxpayer to a  
18 borrower, to the extent that such a loan is secured by  
19 property which is eligible for the River Edge  
20 Redevelopment Zone Investment Credit. To determine the  
21 portion of a loan or loans that is secured by property  
22 eligible for a Section 201(f) investment credit to the  
23 borrower, the entire principal amount of the loan or  
24 loans between the taxpayer and the borrower should be  
25 divided into the basis of the Section 201(f)  
26 investment credit property which secures the loan or

1 loans, using for this purpose the original basis of  
2 such property on the date that it was placed in service  
3 in the River Edge Redevelopment Zone. The subtraction  
4 modification available to the taxpayer in any year  
5 under this subsection shall be that portion of the  
6 total interest paid by the borrower with respect to  
7 such loan attributable to the eligible property as  
8 calculated under the previous sentence. This  
9 subparagraph (M) is exempt from the provisions of  
10 Section 250;

11 (M-1) For any taxpayer that is a financial  
12 organization within the meaning of Section 304(c) of  
13 this Act, an amount included in such total as interest  
14 income from a loan or loans made by such taxpayer to a  
15 borrower, to the extent that such a loan is secured by  
16 property which is eligible for the High Impact  
17 Business Investment Credit. To determine the portion  
18 of a loan or loans that is secured by property eligible  
19 for a Section 201(h) investment credit to the  
20 borrower, the entire principal amount of the loan or  
21 loans between the taxpayer and the borrower should be  
22 divided into the basis of the Section 201(h)  
23 investment credit property which secures the loan or  
24 loans, using for this purpose the original basis of  
25 such property on the date that it was placed in service  
26 in a federally designated Foreign Trade Zone or

1 Sub-Zone located in Illinois. No taxpayer that is  
2 eligible for the deduction provided in subparagraph  
3 (M) of paragraph (2) of this subsection shall be  
4 eligible for the deduction provided under this  
5 subparagraph (M-1). The subtraction modification  
6 available to taxpayers in any year under this  
7 subsection shall be that portion of the total interest  
8 paid by the borrower with respect to such loan  
9 attributable to the eligible property as calculated  
10 under the previous sentence;

11 (N) Two times any contribution made during the  
12 taxable year to a designated zone organization to the  
13 extent that the contribution (i) qualifies as a  
14 charitable contribution under subsection (c) of  
15 Section 170 of the Internal Revenue Code and (ii)  
16 must, by its terms, be used for a project approved by  
17 the Department of Commerce and Economic Opportunity  
18 under Section 11 of the Illinois Enterprise Zone Act  
19 or under Section 10-10 of the River Edge Redevelopment  
20 Zone Act. This subparagraph (N) is exempt from the  
21 provisions of Section 250;

22 (O) An amount equal to: (i) 85% for taxable years  
23 ending on or before December 31, 1992, or, a  
24 percentage equal to the percentage allowable under  
25 Section 243(a)(1) of the Internal Revenue Code of 1986  
26 for taxable years ending after December 31, 1992, of

1 the amount by which dividends included in taxable  
2 income and received from a corporation that is not  
3 created or organized under the laws of the United  
4 States or any state or political subdivision thereof,  
5 including, for taxable years ending on or after  
6 December 31, 1988, dividends received or deemed  
7 received or paid or deemed paid under Sections 951  
8 through 965 of the Internal Revenue Code, exceed the  
9 amount of the modification provided under subparagraph  
10 (G) of paragraph (2) of this subsection (b) which is  
11 related to such dividends, and including, for taxable  
12 years ending on or after December 31, 2008, dividends  
13 received from a captive real estate investment trust;  
14 plus (ii) 100% of the amount by which dividends,  
15 included in taxable income and received, including,  
16 for taxable years ending on or after December 31,  
17 1988, dividends received or deemed received or paid or  
18 deemed paid under Sections 951 through 964 of the  
19 Internal Revenue Code and including, for taxable years  
20 ending on or after December 31, 2008, dividends  
21 received from a captive real estate investment trust,  
22 from any such corporation specified in clause (i) that  
23 would but for the provisions of Section 1504(b)(3) of  
24 the Internal Revenue Code be treated as a member of the  
25 affiliated group which includes the dividend  
26 recipient, exceed the amount of the modification

1 provided under subparagraph (G) of paragraph (2) of  
2 this subsection (b) which is related to such  
3 dividends. For taxable years ending on or after June  
4 30, 2021, (i) for purposes of this subparagraph, the  
5 term "dividend" does not include any amount treated as  
6 a dividend under Section 1248 of the Internal Revenue  
7 Code, and (ii) this subparagraph shall not apply to  
8 dividends for which a deduction is allowed under  
9 Section 245(a) of the Internal Revenue Code. This  
10 subparagraph (O) is exempt from the provisions of  
11 Section 250 of this Act;

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

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

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

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

7 (S) For taxable years ending on or after December  
8 31, 1997, in the case of a Subchapter S corporation, an  
9 amount equal to all amounts of income allocable to a  
10 shareholder subject to the Personal Property Tax  
11 Replacement Income Tax imposed by subsections (c) and  
12 (d) of Section 201 of this Act, including amounts  
13 allocable to organizations exempt from federal income  
14 tax by reason of Section 501(a) of the Internal  
15 Revenue Code. This subparagraph (S) is exempt from the  
16 provisions of Section 250;

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

23 (1) "y" equals the amount of the depreciation  
24 deduction taken for the taxable year on the  
25 taxpayer's federal income tax return on property  
26 for which the bonus depreciation deduction was

1 taken in any year under subsection (k) of Section  
2 168 of the Internal Revenue Code, but not  
3 including the bonus depreciation deduction;

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

8 (3) for taxable years ending after December  
9 31, 2005:

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

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

19 (iii) for property on which a bonus  
20 depreciation deduction of 100% of the adjusted  
21 basis was taken in a taxable year ending on or  
22 after December 31, 2021, "x" equals the  
23 depreciation deduction that would be allowed  
24 on that property if the taxpayer had made the  
25 election under Section 168(k)(7) of the  
26 Internal Revenue Code to not claim bonus



1 depreciation on that property; and

2 (iv) for property on which a bonus  
3 depreciation deduction of a percentage other  
4 than 30%, 50% or 100% of the adjusted basis  
5 was taken in a taxable year ending on or after  
6 December 31, 2021, "x" equals "y" multiplied  
7 by 100 times the percentage bonus depreciation  
8 on the property (that is,  $100(\text{bonus}\%)$ ) and  
9 then divided by 100 times 1 minus the  
10 percentage bonus depreciation on the property  
11 (that is,  $100(1-\text{bonus}\%)$ ).

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

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

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

1 subtraction is allowed with respect to that property  
2 under subparagraph (T) and for which the taxpayer was  
3 required in any taxable year to make an addition  
4 modification under subparagraph (E-10), then an amount  
5 equal to that addition modification.

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

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

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

1 income (net of deductions allocable thereto) taken  
2 into account for the taxable year with respect to a  
3 transaction with a taxpayer that is required to make  
4 an addition modification with respect to such  
5 transaction under Section 203(a)(2)(D-19), Section  
6 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
7 203(d)(2)(D-9), but not to exceed the amount of that  
8 addition modification. This subparagraph (V) is exempt  
9 from the provisions of Section 250;

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

1           203(b) (2) (E-12) for interest paid, accrued, or  
2           incurred, directly or indirectly, to the same person.  
3           This subparagraph (W) is exempt from the provisions of  
4           Section 250;

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

26          (Y) For taxable years ending on or after December

1 31, 2011, in the case of a taxpayer who was required to  
2 add back any insurance premiums under Section  
3 203(b)(2)(E-14), such taxpayer may elect to subtract  
4 that part of a reimbursement received from the  
5 insurance company equal to the amount of the expense  
6 or loss (including expenses incurred by the insurance  
7 company) that would have been taken into account as a  
8 deduction for federal income tax purposes if the  
9 expense or loss had been uninsured. If a taxpayer  
10 makes the election provided for by this subparagraph  
11 (Y), the insurer to which the premiums were paid must  
12 add back to income the amount subtracted by the  
13 taxpayer pursuant to this subparagraph (Y). This  
14 subparagraph (Y) is exempt from the provisions of  
15 Section 250; and

16 (Z) The difference between the nondeductible  
17 controlled foreign corporation dividends under Section  
18 965(e)(3) of the Internal Revenue Code over the  
19 taxable income of the taxpayer, computed without  
20 regard to Section 965(e)(2)(A) of the Internal Revenue  
21 Code, and without regard to any net operating loss  
22 deduction. This subparagraph (Z) is exempt from the  
23 provisions of Section 250.

24 (3) Special rule. For purposes of paragraph (2)(A),  
25 "gross income" in the case of a life insurance company,  
26 for tax years ending on and after December 31, 1994, and

1 prior to December 31, 2011, shall mean the gross  
2 investment income for the taxable year and, for tax years  
3 ending on or after December 31, 2011, shall mean all  
4 amounts included in life insurance gross income under  
5 Section 803(a)(3) of the Internal Revenue Code.

6 (c) Trusts and estates.

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

10 (2) Modifications. Subject to the provisions of  
11 paragraph (3), the taxable income referred to in paragraph  
12 (1) shall be modified by adding thereto the sum of the  
13 following amounts:

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

18 (B) In the case of (i) an estate, \$600; (ii) a  
19 trust which, under its governing instrument, is  
20 required to distribute all of its income currently,  
21 \$300; and (iii) any other trust, \$100, but in each such  
22 case, only to the extent such amount was deducted in  
23 the computation of taxable income;

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

1 the computation of taxable income for the taxable  
2 year;

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

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

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

25 (ii) the addition modification relating to the  
26 net operating loss carried back or forward to the

1 taxable year from any taxable year ending prior to  
2 December 31, 1986 shall not exceed the amount of  
3 such carryback or carryforward;

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

11 (F) For taxable years ending on or after January  
12 1, 1989, an amount equal to the tax deducted pursuant  
13 to Section 164 of the Internal Revenue Code if the  
14 trust or estate is claiming the same tax for purposes  
15 of the Illinois foreign tax credit under Section 601  
16 of this Act;

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

21 (G-5) For taxable years ending after December 31,  
22 1997, an amount equal to any eligible remediation  
23 costs that the trust or estate deducted in computing  
24 adjusted gross income and for which the trust or  
25 estate claims a credit under subsection (1) of Section  
26 201;



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

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

13 If the taxpayer continues to own property through  
14 the last day of the last tax year for which a  
15 subtraction is allowed with respect to that property  
16 under subparagraph (R) and for which the taxpayer was  
17 allowed in any taxable year to make a subtraction  
18 modification under subparagraph (R), then an amount  
19 equal to that subtraction modification.

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

23 (G-12) An amount equal to the amount otherwise  
24 allowed as a deduction in computing base income for  
25 interest paid, accrued, or incurred, directly or  
26 indirectly, (i) for taxable years ending on or after

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

24 This paragraph shall not apply to the following:

25 (i) an item of interest paid, accrued, or  
26 incurred, directly or indirectly, to a person who

1 is subject in a foreign country or state, other  
2 than a state which requires mandatory unitary  
3 reporting, to a tax on or measured by net income  
4 with respect to such interest; or

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

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

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

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

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

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

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

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

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

10 This paragraph shall not apply to the following:

11 (i) any item of intangible expenses or costs  
12 paid, accrued, or incurred, directly or  
13 indirectly, from a transaction with 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 item; or

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

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

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

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

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

26 (G-14) For taxable years ending on or after

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



1 (G-15) An amount equal to the credit allowable to  
2 the taxpayer under Section 218(a) of this Act,  
3 determined without regard to Section 218(c) of this  
4 Act;

5 (G-16) For taxable years ending on or after  
6 December 31, 2017, an amount equal to the deduction  
7 allowed under Section 199 of the Internal Revenue Code  
8 for the taxable year;

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

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

22 (I) The valuation limitation amount;

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

26 (K) An amount equal to all amounts included in

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

11 (L) With the exception of any amounts subtracted  
12 under subparagraph (K), an amount equal to the sum of  
13 all amounts disallowed as deductions by (i) Sections  
14 171(a)(2) and 265(a)(2) of the Internal Revenue Code,  
15 and all amounts of expenses allocable to interest and  
16 disallowed as deductions by Section 265(a)(1) of the  
17 Internal Revenue Code; and (ii) for taxable years  
18 ending on or after August 13, 1999, Sections  
19 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the  
20 Internal Revenue Code, plus, (iii) for taxable years  
21 ending on or after December 31, 2011, Section  
22 45G(e)(3) of the Internal Revenue Code and, for  
23 taxable years ending on or after December 31, 2008,  
24 any amount included in gross income under Section 87  
25 of the Internal Revenue Code; the provisions of this  
26 subparagraph are exempt from the provisions of Section

1           250;

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

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

1 religious reasons by Nazi Germany or any other Axis  
2 regime or as an heir of the victim. The amount of and  
3 the eligibility for any public assistance, benefit, or  
4 similar entitlement is not affected by the inclusion  
5 of items (i) and (ii) of this paragraph in gross income  
6 for federal income tax purposes. This paragraph is  
7 exempt from the provisions 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  
20 including 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  
5 by 0.429);

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 (iii) for property on which a bonus  
11 depreciation deduction of 100% of the adjusted  
12 basis was taken in a taxable year ending on or  
13 after December 31, 2021, "x" equals the  
14 depreciation deduction that would be allowed  
15 on that property if the taxpayer had made the  
16 election under Section 168(k)(7) of the  
17 Internal Revenue Code to not claim bonus  
18 depreciation on that property; and

19 (iv) for property on which a bonus  
20 depreciation deduction of a percentage other  
21 than 30%, 50% or 100% of the adjusted basis  
22 was taken in a taxable year ending on or after  
23 December 31, 2021, "x" equals "y" multiplied  
24 by 100 times the percentage bonus depreciation  
25 on the property (that is,  $100(\text{bonus}\%)$ ) and  
26 then divided by 100 times 1 minus the

1 percentage bonus depreciation on the property  
2 (that is,  $100(1-\text{bonus}\%)$ ).

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

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

16 If the taxpayer continues to own property through  
17 the last day of the last tax year for which a  
18 subtraction is allowed with respect to that property  
19 under subparagraph (R) and for which the taxpayer was  
20 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 The taxpayer is allowed to take the deduction  
24 under this subparagraph only once with respect to any  
25 one piece of property.

26 This subparagraph (S) is exempt from the

1 provisions of Section 250;

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

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



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

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

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

8 (W) in the case of an estate, an amount equal to  
9 all amounts included in such total pursuant to the  
10 provisions of Section 111 of the Internal Revenue Code  
11 as a recovery of items previously deducted by the  
12 decedent from adjusted gross income in the computation  
13 of taxable income. This subparagraph (W) is exempt  
14 from Section 250;

15 (X) an amount equal to the refund included in such  
16 total of any tax deducted for federal income tax  
17 purposes, to the extent that deduction was added back  
18 under subparagraph (F). This subparagraph (X) is  
19 exempt from the provisions of Section 250;

20 (Y) For taxable years ending on or after December  
21 31, 2011, in the case of a taxpayer who was required to  
22 add back any insurance premiums under Section  
23 203(c)(2)(G-14), such taxpayer may elect to subtract  
24 that part of a reimbursement received from the  
25 insurance company equal to the amount of the expense  
26 or loss (including expenses incurred by the insurance

1 company) that would have been taken into account as a  
2 deduction for federal income tax purposes if the  
3 expense or loss had been uninsured. If a taxpayer  
4 makes the election provided for by this subparagraph  
5 (Y), the insurer to which the premiums were paid must  
6 add back to income the amount subtracted by the  
7 taxpayer pursuant to this subparagraph (Y). This  
8 subparagraph (Y) is exempt from the provisions of  
9 Section 250; and

10 (Z) For taxable years beginning after December 31,  
11 2018 and before January 1, 2026, the amount of excess  
12 business loss of the taxpayer disallowed as a  
13 deduction by Section 461(l)(1)(B) of the Internal  
14 Revenue Code.

15 (3) Limitation. The amount of any modification  
16 otherwise required under this subsection shall, under  
17 regulations prescribed by the Department, be adjusted by  
18 any amounts included therein which were properly paid,  
19 credited, or required to be distributed, or permanently  
20 set aside for charitable purposes pursuant to Internal  
21 Revenue Code Section 642(c) during the taxable year.

22 (d) Partnerships.

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

1           (2) Modifications. The taxable income referred to in  
2 paragraph (1) shall be modified by adding thereto the sum  
3 of the 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) An amount equal to the amount of tax imposed by  
9 this Act to the extent deducted from gross income for  
10 the taxable year;

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

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

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

24           (D-6) If the taxpayer sells, transfers, abandons,  
25 or otherwise disposes of property for which the  
26 taxpayer was required in any taxable year to make an

1 addition modification under subparagraph (D-5), then  
2 an amount equal to the aggregate amount of the  
3 deductions taken in all taxable years under  
4 subparagraph (O) with respect to that property.

5 If the taxpayer continues to own property through  
6 the last day of the last tax year for which a  
7 subtraction is allowed with respect to that property  
8 under subparagraph (O) and for which the taxpayer was  
9 allowed in any taxable year to make a subtraction  
10 modification under subparagraph (O), then an amount  
11 equal to that subtraction modification.

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

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

16 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

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

26 Nothing in this subsection shall preclude the

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

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



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

1 similar types of intangible assets;

2 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) any item of intangible expense or cost

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

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

18          (D-9) For taxable years ending on or after  
19          December 31, 2008, an amount equal to the amount of  
20          insurance premium expenses and costs otherwise allowed  
21          as a deduction in computing base income, and that were  
22          paid, accrued, or incurred, directly or indirectly, to  
23          a person who would be a member of the same unitary  
24          business group but for the fact that the person is  
25          prohibited under Section 1501(a)(27) from being  
26          included in the unitary business group because he or

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

18 (D-10) An amount equal to the credit allowable to  
19 the taxpayer under Section 218(a) of this Act,  
20 determined without regard to Section 218(c) of this  
21 Act;

22 (D-11) For taxable years ending on or after  
23 December 31, 2017, an amount equal to the deduction  
24 allowed under Section 199 of the Internal Revenue Code  
25 for the taxable year;

26 and by deducting from the total so obtained the following

1 amounts:

2 (E) The valuation limitation amount;

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

16 (H) Any income of the partnership which  
17 constitutes personal service income as defined in  
18 Section 1348(b)(1) of the Internal Revenue Code (as in  
19 effect December 31, 1981) or a reasonable allowance  
20 for compensation paid or accrued for services rendered  
21 by partners to the partnership, whichever is greater;  
22 this subparagraph (H) is exempt from the provisions of  
23 Section 250;

24 (I) An amount equal to all amounts of income  
25 distributable to an entity subject to the Personal  
26 Property Tax Replacement Income Tax imposed by

1 subsections (c) and (d) of Section 201 of this Act  
2 including amounts distributable to organizations  
3 exempt from federal income tax by reason of Section  
4 501(a) of the Internal Revenue Code; this subparagraph  
5 (I) is exempt from the provisions of Section 250;

6 (J) With the exception of any amounts subtracted  
7 under subparagraph (G), an amount equal to the sum of  
8 all amounts disallowed as deductions by (i) Sections  
9 171(a)(2) and 265(a)(2) of the Internal Revenue Code,  
10 and all amounts of expenses allocable to interest and  
11 disallowed as deductions by Section 265(a)(1) of the  
12 Internal Revenue Code; and (ii) for taxable years  
13 ending on or after August 13, 1999, Sections  
14 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the  
15 Internal Revenue Code, plus, (iii) for taxable years  
16 ending on or after December 31, 2011, Section  
17 45G(e)(3) of the Internal Revenue Code and, for  
18 taxable years ending on or after December 31, 2008,  
19 any amount included in gross income under Section 87  
20 of the Internal Revenue Code; the provisions of this  
21 subparagraph are exempt from the provisions of Section  
22 250;

23 (K) An amount equal to those dividends included in  
24 such total which were paid by a corporation which  
25 conducts business operations in a River Edge  
26 Redevelopment Zone or zones created under the River

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

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

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

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

22 (O) 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  
8                   including 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  
19                           by 0.429);

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                           (iii) for property on which a bonus  
25                           depreciation deduction of 100% of the adjusted  
26                           basis was taken in a taxable year ending on or



1 after December 31, 2021, "x" equals the  
2 depreciation deduction that would be allowed  
3 on that property if the taxpayer had made the  
4 election under Section 168(k)(7) of the  
5 Internal Revenue Code to not claim bonus  
6 depreciation on that property; and

7 (iv) for property on which a bonus  
8 depreciation deduction of a percentage other  
9 than 30%, 50% or 100% of the adjusted basis  
10 was taken in a taxable year ending on or after  
11 December 31, 2021, "x" equals "y" multiplied  
12 by 100 times the percentage bonus depreciation  
13 on the property (that is,  $100(\text{bonus}\%)$ ) and  
14 then divided by 100 times 1 minus the  
15 percentage bonus depreciation on the property  
16 (that is,  $100(1-\text{bonus}\%)$ ).

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

25 (P) If the taxpayer sells, transfers, abandons, or  
26 otherwise disposes of property for which the taxpayer

1 was required in any taxable year to make an addition  
2 modification under subparagraph (D-5), then an amount  
3 equal to that addition modification.

4 If the taxpayer continues to own property through  
5 the last day of the last tax year for which a  
6 subtraction is allowed with respect to that property  
7 under subparagraph (O) and for which the taxpayer was  
8 required in any taxable year to make an addition  
9 modification under subparagraph (D-5), then an amount  
10 equal to that addition modification.

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

14 This subparagraph (P) is exempt from the  
15 provisions of Section 250;

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

1 that is required to make an addition modification with  
2 respect to such transaction under Section  
3 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
4 203(d)(2)(D-8), but not to exceed the amount of such  
5 addition modification. This subparagraph (Q) is exempt  
6 from Section 250;

7 (R) An amount equal to the interest income taken  
8 into account for the taxable year (net of the  
9 deductions allocable thereto) with respect to  
10 transactions with (i) a foreign person who would be a  
11 member of the taxpayer's unitary business group but  
12 for the fact that the foreign person's business  
13 activity outside the United States is 80% or more of  
14 that person's total business activity and (ii) for  
15 taxable years ending on or after December 31, 2008, 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, but  
22 not to exceed the addition modification required to be  
23 made for the same taxable year under Section  
24 203(d)(2)(D-7) for interest paid, accrued, or  
25 incurred, directly or indirectly, to the same person.  
26 This subparagraph (R) is exempt from Section 250;

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

22           (T) For taxable years ending on or after December  
23 31, 2011, in the case of a taxpayer who was required to  
24 add back any insurance premiums under Section  
25 203(d)(2)(D-9), such taxpayer may elect to subtract  
26 that part of a reimbursement received from the

1 insurance company equal to the amount of the expense  
2 or loss (including expenses incurred by the insurance  
3 company) that would have been taken into account as a  
4 deduction for federal income tax purposes if the  
5 expense or loss had been uninsured. If a taxpayer  
6 makes the election provided for by this subparagraph  
7 (T), the insurer to which the premiums were paid must  
8 add back to income the amount subtracted by the  
9 taxpayer pursuant to this subparagraph (T). This  
10 subparagraph (T) is exempt from the provisions of  
11 Section 250.

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

13 (1) In general. Subject to the provisions of paragraph  
14 (2) and subsection (b)(3), for purposes of this Section  
15 and Section 803(e), a taxpayer's gross income, adjusted  
16 gross income, or taxable income for the taxable year shall  
17 mean the amount of gross income, adjusted gross income or  
18 taxable income properly reportable for federal income tax  
19 purposes for the taxable year under the provisions of the  
20 Internal Revenue Code. Taxable income may be less than  
21 zero. However, for taxable years ending on or after  
22 December 31, 1986, net operating loss carryforwards from  
23 taxable years ending prior to December 31, 1986, may not  
24 exceed the sum of federal taxable income for the taxable  
25 year before net operating loss deduction, plus the excess

1 of addition modifications over subtraction modifications  
2 for the taxable year. For taxable years ending prior to  
3 December 31, 1986, taxable income may never be an amount  
4 in excess of the net operating loss for the taxable year as  
5 defined in subsections (c) and (d) of Section 172 of the  
6 Internal Revenue Code, provided that when taxable income  
7 of a corporation (other than a Subchapter S corporation),  
8 trust, or estate is less than zero and addition  
9 modifications, other than those provided by subparagraph  
10 (E) of paragraph (2) of subsection (b) for corporations or  
11 subparagraph (E) of paragraph (2) of subsection (c) for  
12 trusts and estates, exceed subtraction modifications, an  
13 addition modification must be made under those  
14 subparagraphs for any other taxable year to which the  
15 taxable income less than zero (net operating loss) is  
16 applied under Section 172 of the Internal Revenue Code or  
17 under subparagraph (E) of paragraph (2) of this subsection  
18 (e) applied in conjunction with Section 172 of the  
19 Internal Revenue Code.

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

23 (A) Certain life insurance companies. In the case  
24 of a life insurance company subject to the tax imposed  
25 by Section 801 of the Internal Revenue Code, life  
26 insurance company taxable income, plus the amount of

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

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

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

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

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

1 243(b)(2) of the Internal Revenue Code had been in  
2 effect for all such years;

3 (F) Cooperatives. In the case of a cooperative  
4 corporation or association, the taxable income of such  
5 organization determined in accordance with the  
6 provisions of Section 1381 through 1388 of the  
7 Internal Revenue Code, but without regard to the  
8 prohibition against offsetting losses from patronage  
9 activities against income from nonpatronage  
10 activities; except that a cooperative corporation or  
11 association may make an election to follow its federal  
12 income tax treatment of patronage losses and  
13 nonpatronage losses. In the event such election is  
14 made, such losses shall be computed and carried over  
15 in a manner consistent with subsection (a) of Section  
16 207 of this Act and apportioned by the apportionment  
17 factor reported by the cooperative on its Illinois  
18 income tax return filed for the taxable year in which  
19 the losses are incurred. The election shall be  
20 effective for all taxable years with original returns  
21 due on or after the date of the election. In addition,  
22 the cooperative may file an amended return or returns,  
23 as allowed under this Act, to provide that the  
24 election shall be effective for losses incurred or  
25 carried forward for taxable years occurring prior to  
26 the date of the election. Once made, the election may



1           only be revoked upon approval of the Director. The  
2           Department shall adopt rules setting forth  
3           requirements for documenting the elections and any  
4           resulting Illinois net loss and the standards to be  
5           used by the Director in evaluating requests to revoke  
6           elections. Public Act 96-932 is declaratory of  
7           existing law;

8           (G) Subchapter S corporations. In the case of: (i)  
9           a Subchapter S corporation for which there is in  
10          effect an election for the taxable year under Section  
11          1362 of the Internal Revenue Code, the taxable income  
12          of such corporation determined in accordance with  
13          Section 1363(b) of the Internal Revenue Code, except  
14          that taxable income shall take into account those  
15          items which are required by Section 1363(b)(1) of the  
16          Internal Revenue Code to be separately stated; and  
17          (ii) a Subchapter S corporation for which there is in  
18          effect a federal election to opt out of the provisions  
19          of the Subchapter S Revision Act of 1982 and have  
20          applied instead the prior federal Subchapter S rules  
21          as in effect on July 1, 1982, the taxable income of  
22          such corporation determined in accordance with the  
23          federal Subchapter S rules as in effect on July 1,  
24          1982; and

25          (H) Partnerships. In the case of a partnership,  
26          taxable income determined in accordance with Section

1           703 of the Internal Revenue Code, except that taxable  
2           income shall take into account those items which are  
3           required by Section 703(a)(1) to be separately stated  
4           but which would be taken into account by an individual  
5           in calculating his taxable income.

6           (3) Recapture of business expenses on disposition of  
7           asset or business. Notwithstanding any other law to the  
8           contrary, if in prior years income from an asset or  
9           business has been classified as business income and in a  
10          later year is demonstrated to be non-business income, then  
11          all expenses, without limitation, deducted in such later  
12          year and in the 2 immediately preceding taxable years  
13          related to that asset or business that generated the  
14          non-business income shall be added back and recaptured as  
15          business income in the year of the disposition of the  
16          asset or business. Such amount shall be apportioned to  
17          Illinois using the greater of the apportionment fraction  
18          computed for the business under Section 304 of this Act  
19          for the taxable year or the average of the apportionment  
20          fractions computed for the business under Section 304 of  
21          this Act for the taxable year and for the 2 immediately  
22          preceding taxable years.

23          (f) Valuation limitation amount.

24          (1) In general. The valuation limitation amount  
25          referred to in subsections (a)(2)(G), (c)(2)(I) and

1 (d) (2) (E) is an amount equal to:

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

8 (B) The lesser of (i) the sum of the pre-August 1,  
9 1969 appreciation amounts (to the extent consisting of  
10 capital gain) for all property in respect of which  
11 such gain was reported for federal income tax purposes  
12 for the taxable year, or (ii) the net capital gain for  
13 the taxable year, reduced in either case by any amount  
14 of such gain included in the amount determined under  
15 subsection (a) (2) (F) or (c) (2) (H).

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

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

1           such property.

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

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

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

19          (h) Legislative intention. Except as expressly provided by  
20          this Section there shall be no modifications or limitations on  
21          the amounts of income, gain, loss or deduction taken into  
22          account in determining gross income, adjusted gross income or  
23          taxable income for federal income tax purposes for the taxable  
24          year, or in the amount of such items entering into the

1 computation of base income and net income under this Act for  
2 such taxable year, whether in respect of property values as of  
3 August 1, 1969 or otherwise.

4 (Source: P.A. 101-9, eff. 6-5-19; 101-81, eff. 7-12-19;  
5 102-16, eff. 6-17-21; 102-558, eff. 8-20-21; 102-658, eff.  
6 8-27-21; 102-813, eff. 5-13-22; 102-1112, eff. 12-21-22.)

7 Section 50. The Criminal Code of 2012 is amended by  
8 changing Section 11-1.20 as follows:

9 (720 ILCS 5/11-1.20) (was 720 ILCS 5/12-13)

10 Sec. 11-1.20. Criminal sexual assault.

11 (a) A person commits criminal sexual assault if that  
12 person commits an act of sexual penetration and:

13 (1) uses force or threat of force;

14 (2) knows that the victim is unable to understand the  
15 nature of the act or is unable to give knowing consent;

16 (3) is a family member of the victim, and the victim is  
17 under 18 years of age; or

18 (4) is 17 years of age or over and holds a position of  
19 trust, authority, or supervision in relation to the  
20 victim, and the victim is at least 13 years of age but  
21 under 18 years of age.

22 (a-5) A person commits criminal sexual assault if that  
23 person is a health care provider who knowingly or  
24 intentionally provides assisted reproductive treatment to a

1 patient by using the health care provider's own spermatozoon  
2 or ovum without the patient's informed written consent to  
3 treatment using the health care provider's spermatozoon or  
4 ovum.

5 (b) Sentence.

6 (1) Criminal sexual assault is a Class 1 felony,  
7 except that:

8 (A) A person who is convicted of the offense of  
9 criminal sexual assault as defined in paragraph (a)(1)  
10 or (a)(2) after having previously been convicted of  
11 the offense of criminal sexual assault or the offense  
12 of exploitation of a child, or who is convicted of the  
13 offense of criminal sexual assault as defined in  
14 paragraph (a)(1) or (a)(2) after having previously  
15 been convicted under the laws of this State or any  
16 other state of an offense that is substantially  
17 equivalent to the offense of criminal sexual assault  
18 or to the offense of exploitation of a child, commits a  
19 Class X felony for which the person shall be sentenced  
20 to a term of imprisonment of not less than 30 years and  
21 not more than 60 years, except that if the person is  
22 under the age of 18 years at the time of the offense,  
23 he or she shall be sentenced under Section 5-4.5-105  
24 of the Unified Code of Corrections. The commission of  
25 the second or subsequent offense is required to have  
26 been after the initial conviction for this paragraph

1 (A) to apply.

2 (B) A person who has attained the age of 18 years  
3 at the time of the commission of the offense and who is  
4 convicted of the offense of criminal sexual assault as  
5 defined in paragraph (a)(1) or (a)(2) after having  
6 previously been convicted of the offense of aggravated  
7 criminal sexual assault or the offense of predatory  
8 criminal sexual assault of a child, or who is  
9 convicted of the offense of criminal sexual assault as  
10 defined in paragraph (a)(1) or (a)(2) after having  
11 previously been convicted under the laws of this State  
12 or any other state of an offense that is substantially  
13 equivalent to the offense of aggravated criminal  
14 sexual assault or the offense of predatory criminal  
15 sexual assault of a child shall be sentenced to a term  
16 of natural life imprisonment. The commission of the  
17 second or subsequent offense is required to have been  
18 after the initial conviction for this paragraph (B) to  
19 apply. An offender under the age of 18 years at the  
20 time of the commission of the offense covered by this  
21 subparagraph (B) shall be sentenced under Section  
22 5-4.5-105 of the Unified Code of Corrections.

23 (C) A second or subsequent conviction for a  
24 violation of paragraph (a)(3) or (a)(4) or subsection  
25 (a-5) or under any similar statute of this State or any  
26 other state for any offense involving criminal sexual

1 assault that is substantially equivalent to or more  
2 serious than the sexual assault prohibited under  
3 paragraph (a)(3) or (a)(4) or subsection (a-5) is a  
4 Class X felony.

5 (Source: P.A. 99-69, eff. 1-1-16.)

6 Section 55. The Code of Civil Procedure is amended by  
7 changing Section 13-212 and by adding Section 13-215.1 as  
8 follows:

9 (735 ILCS 5/13-212) (from Ch. 110, par. 13-212)

10 Sec. 13-212. Physician or hospital.

11 (a) Except as provided in Section 13-215 or 13-215.1 of  
12 this Act, no action for damages for injury or death against any  
13 physician, dentist, registered nurse or hospital duly licensed  
14 under the laws of this State, whether based upon tort, or  
15 breach of contract, or otherwise, arising out of patient care  
16 shall be brought more than 2 years after the date on which the  
17 claimant knew, or through the use of reasonable diligence  
18 should have known, or received notice in writing of the  
19 existence of the injury or death for which damages are sought  
20 in the action, whichever of such date occurs first, but in no  
21 event shall such action be brought more than 4 years after the  
22 date on which occurred the act or omission or occurrence  
23 alleged in such action to have been the cause of such injury or  
24 death.



1           (b) Except as provided in Section 13-215 or 13-215.1 of  
2 this Act, no action for damages for injury or death against any  
3 physician, dentist, registered nurse or hospital duly licensed  
4 under the laws of this State, whether based upon tort, or  
5 breach of contract, or otherwise, arising out of patient care  
6 shall be brought more than 8 years after the date on which  
7 occurred the act or omission or occurrence alleged in such  
8 action to have been the cause of such injury or death where the  
9 person entitled to bring the action was, at the time the cause  
10 of action accrued, under the age of 18 years; provided,  
11 however, that in no event may the cause of action be brought  
12 after the person's 22nd birthday. If the person was under the  
13 age of 18 years when the cause of action accrued and, as a  
14 result of this amendatory Act of 1987, the action is either  
15 barred or there remains less than 3 years to bring such action,  
16 then he or she may bring the action within 3 years of July 20,  
17 1987.

18           (c) If the person entitled to bring an action described in  
19 this Section is, at the time the cause of action accrued, under  
20 a legal disability other than being under the age of 18 years,  
21 then the period of limitations does not begin to run until the  
22 disability is removed.

23           (d) If the person entitled to bring an action described in  
24 this Section is not under a legal disability at the time the  
25 cause of action accrues, but becomes under a legal disability  
26 before the period of limitations otherwise runs, the period of

1 limitations is stayed until the disability is removed. This  
2 subsection (d) does not invalidate any statute of repose  
3 provisions contained in this Section. This subsection (d)  
4 applies to actions commenced or pending on or after the  
5 effective date of this amendatory Act of the 98th General  
6 Assembly.

7 (Source: P.A. 98-1077, eff. 1-1-15.)

8 (735 ILCS 5/13-215.1 new)

9 Sec. 13-215.1. Fertility fraud limitation. Notwithstanding  
10 any other provision of the law, an action for fertility fraud  
11 under the Illinois Fertility Fraud Act must be commenced  
12 within the later of 20 years after:

13 (1) the procedure was performed;

14 (2) the 18th birthday of the child;

15 (3) the person first discovers evidence sufficient to  
16 bring an action against the defendant through DNA  
17 (deoxyribonucleic acid) analysis;

18 (4) the person first becomes aware of the existence of  
19 a record that provides evidence sufficient to bring an  
20 action against the defendant; or

21 (5) the defendant confesses to the offense.

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 35 ILCS 5/203 from Ch. 120, par. 2-203

5 720 ILCS 5/11-1.20 was 720 ILCS 5/12-13

6 735 ILCS 5/13-212 from Ch. 110, par. 13-212

7 735 ILCS 5/13-215.1 new