



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/09/04, by Bill Mitchell - Shane Cultra

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. For taxable years ending on or after December 31, 2004, allows a deduction of up to \$10,000 if the taxpayer, while living, donates one or more of his or her human organs to another human being for human organ transplantation. Provides that the deduction may be claimed only once and for only unreimbursed travel and lodging expenses and lost wages incurred by the claimant and related to the claimant's organ donation. Effective immediately.

LRB093 20530 SJM 46335 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning taxes.

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

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

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

7 Sec. 203. Base income defined.

8 (a) Individuals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (G) The valuation limitation amount;

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

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

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

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

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

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

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

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

34 (O) An amount equal to any contribution made to a  
35 job training project established pursuant to the Tax  
36 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

34           (V) Beginning with tax years ending on or after  
35 December 31, 1995 and ending with tax years ending on  
36 or before December 31, 2004, an amount equal to the

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

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

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



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

27 (Y) For taxable years beginning on or after January  
28 1, 2002, moneys contributed in the taxable year to a  
29 College Savings Pool account under Section 16.5 of the  
30 State Treasurer Act, except that amounts excluded from  
31 gross income under Section 529(c)(3)(C)(i) of the  
32 Internal Revenue Code shall not be considered moneys  
33 contributed under this subparagraph (Y). This  
34 subparagraph (Y) is exempt from the provisions of  
35 Section 250;

36 (Z) For taxable years 2001 and thereafter, for the

1 taxable year in which the bonus depreciation deduction  
2 (30% of the adjusted basis of the qualified property)  
3 is taken on the taxpayer's federal income tax return  
4 under subsection (k) of Section 168 of the Internal  
5 Revenue Code and for each applicable taxable year  
6 thereafter, an amount equal to "x", where:

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

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

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 (30% of the adjusted basis of  
21 the qualified property) taken on that property on the  
22 taxpayer's federal income tax return under subsection  
23 (k) of Section 168 of the Internal Revenue Code; ~~and~~

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

31 The taxpayer is allowed to take the deduction under  
32 this subparagraph only once with respect to any one  
33 piece of property; ~~and~~

34 (BB) ~~(Z)~~ Any amount included in adjusted gross  
35 income, other than salary, received by a driver in a  
36 ridesharing arrangement using a motor vehicle; and ~~and~~

1           (CC) For taxable years ending on or after December  
2           31, 2004, subject to the conditions in this  
3           subparagraph, up to \$10,000, if the taxpayer, while  
4           living, donates one or more of his or her human organs  
5           to another human being for human organ  
6           transplantation. A deduction that is claimed under  
7           this subparagraph may be claimed for the taxable year  
8           in which the human organ transplantation occurs. An  
9           individual may claim the deduction under this  
10           subparagraph only once, and the deduction may be  
11           claimed for only the following unreimbursed expenses  
12           that are incurred by the claimant and related to the  
13           claimant's organ donation:

14                   (I) travel expenses;

15                   (II) lodging expenses; and

16                   (III) lost wages.

17           The deduction under this subparagraph may not be  
18           claimed by a part-year resident or a nonresident of  
19           this State. As used in this subparagraph, "human organ"  
20           means all or part of a liver, pancreas, kidney,  
21           intestine, lung, or bone marrow, and "human organ  
22           transplantation" means the medical procedure by which  
23           transfer of a human organ is made from the body of a  
24           person to the body of another person. This subparagraph  
25           is exempt from the provisions of Section 250 of the  
26           Act.

27           (b) Corporations.

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

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

34                           (A) An amount equal to all amounts paid or accrued  
35           to the taxpayer as interest and all distributions

1 received from regulated investment companies during  
2 the taxable year to the extent excluded from gross  
3 income in the computation of taxable income;

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

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

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

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

31 (i) the addition modification relating to the  
32 net operating loss carried back or forward to the  
33 taxable year from any taxable year ending prior to  
34 December 31, 1986 shall be reduced by the amount of  
35 addition modification under this subparagraph (E)  
36 which related to that net operating loss and which

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

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

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

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

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

26                  (E-11) If the taxpayer reports a capital gain or  
27          loss on the taxpayer's federal income tax return for  
28          the taxable year based on a sale or transfer of  
29          property for which the taxpayer was required in any  
30          taxable year to make an addition modification under  
31          subparagraph (E-10), then an amount equal to the  
32          aggregate amount of the deductions taken in all taxable  
33          years under subparagraph (T) with respect to that  
34          property.†

35                  The taxpayer is required to make the addition  
36          modification under this subparagraph only once with

1           respect to any one piece of property;  
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, as now or hereafter amended, and all  
20                   amounts of expenses allocable to interest and  
21                   disallowed as deductions by Section 265(a) (1) of the  
22                   Internal Revenue Code, as now or hereafter amended; and  
23                   (ii) for taxable years ending on or after August 13,  
24                   1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and  
25                   832(b) (5) (B) (i) of the Internal Revenue Code; the  
26                   provisions of this subparagraph are exempt from the  
27                   provisions of Section 250;

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

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

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

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

36           (M-1) For any taxpayer that is a financial

1 organization within the meaning of Section 304(c) of  
2 this Act, an amount included in such total as interest  
3 income from a loan or loans made by such taxpayer to a  
4 borrower, to the extent that such a loan is secured by  
5 property which is eligible for the High Impact Business  
6 Investment Credit. To determine the portion of a loan  
7 or loans that is secured by property eligible for a  
8 Section 201(h) investment credit to the borrower, the  
9 entire principal amount of the loan or loans between  
10 the taxpayer and the borrower should be divided into  
11 the basis of the Section 201(h) investment credit  
12 property which secures the loan or loans, using for  
13 this purpose the original basis of such property on the  
14 date that it was placed in service in a federally  
15 designated Foreign Trade Zone or Sub-Zone located in  
16 Illinois. No taxpayer that is eligible for the  
17 deduction provided in subparagraph (M) of paragraph  
18 (2) of this subsection shall be eligible for the  
19 deduction provided under this subparagraph (M-1). The  
20 subtraction modification available to taxpayers in any  
21 year under this subsection shall be that portion of the  
22 total interest paid by the borrower with respect to  
23 such loan attributable to the eligible property as  
24 calculated under the previous sentence;

25 (N) Two times any contribution made during the  
26 taxable year to a designated zone organization to the  
27 extent that the contribution (i) qualifies as a  
28 charitable contribution under subsection (c) of  
29 Section 170 of the Internal Revenue Code and (ii) must,  
30 by its terms, be used for a project approved by the  
31 Department of Commerce and Economic Opportunity  
32 ~~Community Affairs~~ under Section 11 of the Illinois  
33 Enterprise Zone Act;

34 (O) An amount equal to: (i) 85% for taxable years  
35 ending on or before December 31, 1992, or, a percentage  
36 equal to the percentage allowable under Section



1 243(a) (1) of the Internal Revenue Code of 1986 for  
2 taxable years ending after December 31, 1992, of the  
3 amount by which dividends included in taxable income  
4 and received from a corporation that is not created or  
5 organized under the laws of the United States or any  
6 state or political subdivision thereof, including, for  
7 taxable years ending on or after December 31, 1988,  
8 dividends received or deemed received or paid or deemed  
9 paid under Sections 951 through 964 of the Internal  
10 Revenue Code, exceed the amount of the modification  
11 provided under subparagraph (G) of paragraph (2) of  
12 this subsection (b) which is related to such dividends;  
13 plus (ii) 100% of the amount by which dividends,  
14 included in taxable income and received, including,  
15 for taxable years ending on or after December 31, 1988,  
16 dividends received or deemed received or paid or deemed  
17 paid under Sections 951 through 964 of the Internal  
18 Revenue Code, from any such corporation specified in  
19 clause (i) that would but for the provisions of Section  
20 1504 (b) (3) of the Internal Revenue Code be treated as  
21 a member of the affiliated group which includes the  
22 dividend recipient, exceed the amount of the  
23 modification provided under subparagraph (G) of  
24 paragraph (2) of this subsection (b) which is related  
25 to such dividends;

26 (P) An amount equal to any contribution made to a  
27 job training project established pursuant to the Tax  
28 Increment Allocation Redevelopment Act;

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

34 (R) In the case of an attorney-in-fact with respect  
35 to whom an interinsurer or a reciprocal insurer has  
36 made the election under Section 835 of the Internal

1 Revenue Code, 26 U.S.C. 835, an amount equal to the  
2 excess, if any, of the amounts paid or incurred by that  
3 interinsurer or reciprocal insurer in the taxable year  
4 to the attorney-in-fact over the deduction allowed to  
5 that interinsurer or reciprocal insurer with respect  
6 to the attorney-in-fact under Section 835(b) of the  
7 Internal Revenue Code for the taxable year;

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

18 (T) For taxable years 2001 and thereafter, for the  
19 taxable year in which the bonus depreciation deduction  
20 (30% of the adjusted basis of the qualified property)  
21 is taken on the taxpayer's federal income tax return  
22 under subsection (k) of Section 168 of the Internal  
23 Revenue Code and for each applicable taxable year  
24 thereafter, an amount equal to "x", where:

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

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

35 The aggregate amount deducted under this  
36 subparagraph in all taxable years for any one piece of

1 property may not exceed the amount of the bonus  
2 depreciation deduction (30% of the adjusted basis of  
3 the qualified property) taken on that property on the  
4 taxpayer's federal income tax return under subsection  
5 (k) of Section 168 of the Internal Revenue Code; and

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

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

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

20 (c) Trusts and estates.

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

24 (2) Modifications. Subject to the provisions of  
25 paragraph (3), the taxable income referred to in paragraph  
26 (1) shall be modified by adding thereto the sum of the  
27 following amounts:

28 (A) An amount equal to all amounts paid or accrued  
29 to the taxpayer as interest or dividends during the  
30 taxable year to the extent excluded from gross income  
31 in the computation of taxable income;

32 (B) In the case of (i) an estate, \$600; (ii) a  
33 trust which, under its governing instrument, is  
34 required to distribute all of its income currently,  
35 \$300; and (iii) any other trust, \$100, but in each such

1 case, only to the extent such amount was deducted in  
2 the computation of taxable income;

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

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

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

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

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

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

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

4 (F) For taxable years ending on or after January 1,  
5 1989, an amount equal to the tax deducted pursuant to  
6 Section 164 of the Internal Revenue Code if the trust  
7 or estate is claiming the same tax for purposes of the  
8 Illinois foreign tax credit under Section 601 of this  
9 Act;

10 (G) An amount equal to the amount of the capital  
11 gain deduction allowable under the Internal Revenue  
12 Code, to the extent deducted from gross income in the  
13 computation of taxable income;

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

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

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

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

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

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

14 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

33 (1) "y" equals the amount of the depreciation  
34 deduction taken for the taxable year on the  
35 taxpayer's federal income tax return on property  
36 for which the bonus depreciation deduction (30% of



1 the adjusted basis of the qualified property) was  
2 taken in any year under subsection (k) of Section  
3 168 of the Internal Revenue Code, but not including  
4 the bonus depreciation deduction; and

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

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 (30% of the adjusted basis of  
11 the qualified property) taken on that property on the  
12 taxpayer's federal income tax return under subsection  
13 (k) of Section 168 of the Internal Revenue Code; and

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

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

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

31 (d) Partnerships.

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

35 (2) Modifications. The taxable income referred to in

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

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

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

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

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

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

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

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

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

1 (E) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) In general. Subject to the provisions of paragraph  
29 (2) and subsection (b) (3), for purposes of this Section  
30 and Section 803(e), a taxpayer's gross income, adjusted  
31 gross income, or taxable income for the taxable year shall  
32 mean the amount of gross income, adjusted gross income or  
33 taxable income properly reportable for federal income tax  
34 purposes for the taxable year under the provisions of the  
35 Internal Revenue Code. Taxable income may be less than

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

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

28 (A) Certain life insurance companies. In the case  
29 of a life insurance company subject to the tax imposed  
30 by Section 801 of the Internal Revenue Code, life  
31 insurance company taxable income, plus the amount of  
32 distribution from pre-1984 policyholder surplus  
33 accounts as calculated under Section 815a of the  
34 Internal Revenue Code;

35 (B) Certain other insurance companies. In the case  
36 of mutual insurance companies subject to the tax

1 imposed by Section 831 of the Internal Revenue Code,  
2 insurance company taxable income;

3 (C) Regulated investment companies. In the case of  
4 a regulated investment company subject to the tax  
5 imposed by Section 852 of the Internal Revenue Code,  
6 investment company taxable income;

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

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

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

28 (G) Subchapter S corporations. In the case of: (i)  
29 a Subchapter S corporation for which there is in effect  
30 an election for the taxable year under Section 1362 of  
31 the Internal Revenue Code, the taxable income of such  
32 corporation determined in accordance with Section  
33 1363(b) of the Internal Revenue Code, except that  
34 taxable income shall take into account those items  
35 which are required by Section 1363(b)(1) of the  
36 Internal Revenue Code to be separately stated; and (ii)

1 a Subchapter S corporation for which there is in effect  
2 a federal election to opt out of the provisions of the  
3 Subchapter S Revision Act of 1982 and have applied  
4 instead the prior federal Subchapter S rules as in  
5 effect on July 1, 1982, the taxable income of such  
6 corporation determined in accordance with the federal  
7 Subchapter S rules as in effect on July 1, 1982; and

8 (H) Partnerships. In the case of a partnership,  
9 taxable income determined in accordance with Section  
10 703 of the Internal Revenue Code, except that taxable  
11 income shall take into account those items which are  
12 required by Section 703(a)(1) to be separately stated  
13 but which would be taken into account by an individual  
14 in calculating his taxable income.

15 (f) Valuation limitation amount.

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

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

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

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

33 (A) If the fair market value of property referred  
34 to in paragraph (1) was readily ascertainable on August  
35 1, 1969, the pre-August 1, 1969 appreciation amount for



1 such property is the lesser of (i) the excess of such  
2 fair market value over the taxpayer's basis (for  
3 determining gain) for such property on that date  
4 (determined under the Internal Revenue Code as in  
5 effect on that date), or (ii) the total gain realized  
6 and reportable for federal income tax purposes in  
7 respect of the sale, exchange or other disposition of  
8 such property.

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

20 (C) The Department shall prescribe such  
21 regulations as may be necessary to carry out the  
22 purposes of this paragraph.

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

26 (h) Legislative intention. Except as expressly provided by  
27 this Section there shall be no modifications or limitations on  
28 the amounts of income, gain, loss or deduction taken into  
29 account in determining gross income, adjusted gross income or  
30 taxable income for federal income tax purposes for the taxable  
31 year, or in the amount of such items entering into the  
32 computation of base income and net income under this Act for  
33 such taxable year, whether in respect of property values as of  
34 August 1, 1969 or otherwise.

1 (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99;  
2 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff.  
3 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16,  
4 eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01;  
5 92-603, eff. 6-28-02; 92-626, eff. 7-11-02; 92-651, eff.  
6 7-11-02; 92-846, eff. 8-23-02; revised 10-15-03.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.