



Adopted in House Comm. on May 13, 2004

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1 AMENDMENT TO SENATE BILL 2207

2 AMENDMENT NO. _____. Amend Senate Bill 2207 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Sections 203, 205, 305, and 1501 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

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

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

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 adjusted gross income;

19 (D-5) An amount, to the extent not included in
20 adjusted gross income, equal to the amount of money
21 withdrawn by the taxpayer in the taxable year from a
22 medical care savings account and the interest earned on
23 the account in the taxable year of a withdrawal
24 pursuant to subsection (b) of Section 20 of the Medical
25 Care Savings Account Act or subsection (b) of Section
26 20 of the Medical Care Savings Account Act of 2000;

27 (D-10) For taxable years ending after December 31,
28 1997, an amount equal to any eligible remediation costs
29 that the individual deducted in computing adjusted
30 gross income and for which the individual claims a
31 credit under subsection (l) of Section 201;

32 (D-15) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction (30%
34 of the adjusted basis of the qualified property) taken

1 on the taxpayer's federal income tax return for the
2 taxable year under subsection (k) of Section 168 of the
3 Internal Revenue Code; ~~and~~

4 (D-16) If the taxpayer reports a capital gain or
5 loss on the taxpayer's federal income tax return for
6 the taxable year based on a sale or transfer of
7 property for which the taxpayer was required in any
8 taxable year to make an addition modification under
9 subparagraph (D-15), then an amount equal to the
10 aggregate amount of the deductions taken in all taxable
11 years under subparagraph (Z) with respect to that
12 property.~~†~~

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

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

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

27 (E) For taxable years ending before December 31,
28 2001, any amount included in such total in respect of
29 any compensation (including but not limited to any
30 compensation paid or accrued to a serviceman while a
31 prisoner of war or missing in action) paid to a
32 resident by reason of being on active duty in the Armed
33 Forces of the United States and in respect of any
34 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 National
6 Guard. For taxable years ending on or after December
7 31, 2001, any amount included in such total in respect
8 of any compensation (including but not limited to any
9 compensation paid or accrued to a serviceman while a
10 prisoner of war or missing in action) paid to a
11 resident by reason of being a member of any component
12 of the Armed Forces of the United States and in respect
13 of any compensation paid or accrued to a resident who
14 as a governmental employee was a prisoner of war or
15 missing in action, and in respect of any compensation
16 paid to a resident in 2001 or thereafter by reason of
17 being a member of the Illinois National Guard. The
18 provisions of this amendatory Act of the 92nd General
19 Assembly are exempt from the provisions of Section 250;

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

31 (G) The valuation limitation amount;

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

1 (I) An amount equal to all amounts included in such
2 total pursuant to the provisions of Section 111 of the
3 Internal Revenue Code as a recovery of items previously
4 deducted from adjusted gross income in the computation
5 of taxable income;

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

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

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

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

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

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

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

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

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

29 (S) An amount, to the extent included in adjusted
30 gross income, equal to the amount of a contribution
31 made in the taxable year on behalf of the taxpayer to a
32 medical care savings account established under the
33 Medical Care Savings Account Act or the Medical Care
34 Savings Account Act of 2000 to the extent the

1 contribution is accepted by the account administrator
2 as provided in that Act;

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

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

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

1 amount of the health insurance and long-term care
2 insurance subtracted under this item (V) shall be
3 determined by multiplying total health insurance and
4 long-term care insurance premiums paid by the taxpayer
5 times a number that represents the fractional
6 percentage of eligible medical expenses under Section
7 213 of the Internal Revenue Code of 1986 not actually
8 deducted on the taxpayer's federal income tax return;

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

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

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

13 (Y) For taxable years beginning on or after January
14 1, 2002, moneys contributed in the taxable year to a
15 College Savings Pool account under Section 16.5 of the
16 State Treasurer Act, except that amounts excluded from
17 gross income under Section 529(c)(3) (C)(i) of the
18 Internal Revenue Code shall not be considered moneys
19 contributed under this subparagraph (Y). This
20 subparagraph (Y) is exempt from the provisions of
21 Section 250;

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

29 (1) "y" equals the amount of the depreciation
30 deduction taken for the taxable year on the
31 taxpayer's federal income tax return on property
32 for which the bonus depreciation deduction (30% of
33 the adjusted basis of the qualified property) was
34 taken in any year under subsection (k) of Section

1 168 of the Internal Revenue Code, but not including
2 the bonus depreciation deduction; and

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

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

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

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

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

25 (b) Corporations.

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

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

32 (A) An amount equal to all amounts paid or accrued
33 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

1 addition modification under this subparagraph (E)
2 which related to that net operating loss and which
3 was taken into account in calculating the base
4 income of an earlier taxable year, and

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

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

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

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

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

1 years under subparagraph (T) with respect to that
2 property.~~†~~

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

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

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

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

13 (H) In the case of a regulated investment company,
14 an amount equal to the amount of exempt interest
15 dividends as defined in subsection (b) (5) of Section
16 852 of the Internal Revenue Code, paid to shareholders
17 for the taxable year;

18 (I) With the exception of any amounts subtracted
19 under subparagraph (J), an amount equal to the sum of
20 all amounts disallowed as deductions by (i) Sections
21 171(a) (2), and 265(a) (2) and amounts disallowed as
22 interest expense by Section 291(a) (3) of the Internal
23 Revenue Code, as now or hereafter amended, and all
24 amounts of expenses allocable to interest and
25 disallowed as deductions by Section 265(a) (1) of the
26 Internal Revenue Code, as now or hereafter amended; and
27 (ii) for taxable years ending on or after August 13,
28 1999, Sections 171(a) (2), 265, 280C, 291(a) (3), and
29 832(b) (5) (B) (i) of the Internal Revenue Code; the
30 provisions of this subparagraph are exempt from the
31 provisions of Section 250;

32 (J) An amount equal to all amounts included in such
33 total which are exempt from taxation by this State
34 either by reason of its statutes or Constitution or by

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

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

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

22 (M) For any taxpayer that is a financial
23 organization within the meaning of Section 304(c) of
24 this Act, an amount included in such total as interest
25 income from a loan or loans made by such taxpayer to a
26 borrower, to the extent that such a loan is secured by
27 property which is eligible for the Enterprise Zone
28 Investment Credit. To determine the portion of a loan
29 or loans that is secured by property eligible for a
30 Section 201(f) investment credit to the borrower, the
31 entire principal amount of the loan or loans between
32 the taxpayer and the borrower should be divided into
33 the basis of the Section 201(f) investment credit
34 property which secures the loan or loans, using for

1 this purpose the original basis of such property on the
2 date that it was placed in service in the Enterprise
3 Zone. The subtraction modification available to
4 taxpayer in any year under this subsection shall be
5 that portion of the total interest paid by the borrower
6 with respect to such loan attributable to the eligible
7 property as calculated under the previous sentence;

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

33 (N) Two times any contribution made during the
34 taxable year to a designated zone organization to the

1 extent that the contribution (i) qualifies as a
2 charitable contribution under subsection (c) of
3 Section 170 of the Internal Revenue Code and (ii) must,
4 by its terms, be used for a project approved by the
5 Department of Commerce and Economic Opportunity
6 ~~Community Affairs~~ under Section 11 of the Illinois
7 Enterprise Zone Act;

8 (O) An amount equal to: (i) 85% for taxable years
9 ending on or before December 31, 1992, or, a percentage
10 equal to the percentage allowable under Section
11 243(a)(1) of the Internal Revenue Code of 1986 for
12 taxable years ending after December 31, 1992, of the
13 amount by which dividends included in taxable income
14 and received from a corporation that is not created or
15 organized under the laws of the United States or any
16 state or political subdivision thereof, including, for
17 taxable years ending on or after December 31, 1988,
18 dividends received or deemed received or paid or deemed
19 paid under Sections 951 through 964 of the Internal
20 Revenue Code, exceed the amount of the modification
21 provided under subparagraph (G) of paragraph (2) of
22 this subsection (b) which is related to such dividends;
23 plus (ii) 100% of the amount by which dividends,
24 included in taxable income and received, including,
25 for taxable years ending on or after December 31, 1988,
26 dividends received or deemed received or paid or deemed
27 paid under Sections 951 through 964 of the Internal
28 Revenue Code, from any such corporation specified in
29 clause (i) that would but for the provisions of Section
30 1504 (b) (3) of the Internal Revenue Code be treated as
31 a member of the affiliated group which includes the
32 dividend recipient, exceed the amount of the
33 modification provided under subparagraph (G) of
34 paragraph (2) of this subsection (b) which is related

1 to such dividends;

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

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

10 (R) In the case of an attorney-in-fact with respect
11 to whom an interinsurer or a reciprocal insurer has
12 made the election under Section 835 of the Internal
13 Revenue Code, 26 U.S.C. 835, an amount equal to the
14 excess, if any, of the amounts paid or incurred by that
15 interinsurer or reciprocal insurer in the taxable year
16 to the attorney-in-fact over the deduction allowed to
17 that interinsurer or reciprocal insurer with respect
18 to the attorney-in-fact under Section 835(b) of the
19 Internal Revenue Code for the taxable year;

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

30 (T) For taxable years 2001 and thereafter, for the
31 taxable year in which the bonus depreciation deduction
32 (30% of the adjusted basis of the qualified property)
33 is taken on the taxpayer's federal income tax return
34 under subsection (k) of Section 168 of the Internal

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

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

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

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

20 (U) If the taxpayer reports a capital gain or loss
21 on the taxpayer's federal income tax return for the
22 taxable year based on a sale or transfer of property
23 for which the taxpayer was required in any taxable year
24 to make an addition modification under subparagraph
25 (E-10), then an amount equal to that addition
26 modification.

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

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

1 (c) Trusts and estates.

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

5 (2) Modifications. Subject to the provisions of
6 paragraph (3), the taxable income referred to in paragraph
7 (1) shall be modified by adding thereto the sum of the
8 following amounts:

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

13 (B) In the case of (i) an estate, \$600; (ii) a
14 trust which, under its governing instrument, is
15 required to distribute all of its income currently,
16 \$300; and (iii) any other trust, \$100, but in each such
17 case, only to the extent such amount was deducted in
18 the computation of taxable income;

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

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

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

1 they are listed:

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

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

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

22 (F) For taxable years ending on or after January 1,
23 1989, an amount equal to the tax deducted pursuant to
24 Section 164 of the Internal Revenue Code if the trust
25 or estate is claiming the same tax for purposes of the
26 Illinois foreign tax credit under Section 601 of this
27 Act;

28 (G) An amount equal to the amount of the capital
29 gain deduction allowable under the Internal Revenue
30 Code, to the extent deducted from gross income in the
31 computation of taxable income;

32 (G-5) For taxable years ending after December 31,
33 1997, an amount equal to any eligible remediation costs
34 that the trust or estate deducted in computing adjusted

1 gross income and for which the trust or estate claims a
2 credit under subsection (l) of Section 201;

3 (G-10) For taxable years 2001 and thereafter, an
4 amount equal to the bonus depreciation deduction (30%
5 of the adjusted basis of the qualified property) taken
6 on the taxpayer's federal income tax return for the
7 taxable year under subsection (k) of Section 168 of the
8 Internal Revenue Code; and

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

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

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

23 (H) An amount equal to all amounts included in such
24 total pursuant to the provisions of Sections 402(a),
25 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
26 Internal Revenue Code or included in such total as
27 distributions under the provisions of any retirement
28 or disability plan for employees of any governmental
29 agency or unit, or retirement payments to retired
30 partners, which payments are excluded in computing net
31 earnings from self employment by Section 1402 of the
32 Internal Revenue Code and regulations adopted pursuant
33 thereto;

34 (I) The valuation limitation amount;

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

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

15 (L) With the exception of any amounts subtracted
16 under subparagraph (K), 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 as now or hereafter amended, and all amounts of
20 expenses allocable to interest and disallowed as
21 deductions by Section 265(1) of the Internal Revenue
22 Code of 1954, as now or hereafter amended; and (ii) for
23 taxable years ending on or after August 13, 1999,
24 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
25 the Internal Revenue Code; the provisions of this
26 subparagraph are exempt from the provisions of Section
27 250;

28 (M) 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 (N) An amount equal to any contribution made to a

1 job training project established pursuant to the Tax
2 Increment Allocation Redevelopment Act;

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

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

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

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

16 (R) For taxable years 2001 and thereafter, for the
17 taxable year in which the bonus depreciation deduction
18 (30% of the adjusted basis of the qualified property)
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 (30% of
27 the adjusted basis of the qualified property) was
28 taken in any year under subsection (k) of Section
29 168 of the Internal Revenue Code, but not including
30 the bonus depreciation deduction; and

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

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

23 (d) Partnerships.

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

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

30 (A) An amount equal to all amounts paid or accrued
31 to the taxpayer as interest or dividends during the
32 taxable year to the extent excluded from gross income
33 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 for
3 the taxable year;

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

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 taxable income;

11 (D-5) For taxable years 2001 and thereafter, an
12 amount equal to the bonus depreciation deduction (30%
13 of the adjusted basis of the qualified property) taken
14 on the taxpayer's federal income tax return for the
15 taxable year under subsection (k) of Section 168 of the
16 Internal Revenue Code; and

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

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

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

31 (E) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

34 (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

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

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

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

1 accounts as calculated under Section 815a of the
2 Internal Revenue Code;

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

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

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

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

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

32 (G) Subchapter S corporations. In the case of: (i)
33 a Subchapter S corporation for which there is in effect
34 an election for the taxable year under Section 1362 of

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

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

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

31 (f) Valuation limitation amount.

32 (1) In general. The valuation limitation amount
33 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; plus

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

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

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

27 (B) If the fair market value of property referred
28 to in paragraph (1) was not readily ascertainable on
29 August 1, 1969, the pre-August 1, 1969 appreciation
30 amount for such property is that amount which bears the
31 same ratio to the total gain reported in respect of the
32 property for federal income tax purposes for the
33 taxable year, as the number of full calendar months in
34 that part of the taxpayer's holding period for the

1 property ending July 31, 1969 bears to the number of
2 full calendar months in the taxpayer's entire holding
3 period for the property.

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

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

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

19 (Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99;
20 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff.
21 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16,
22 eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01;
23 92-603, eff. 6-28-02; 92-626, eff. 7-11-02; 92-651, eff.
24 7-11-02; 92-846, eff. 8-23-02; revised 10-15-03.)

25 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

26 Sec. 205. Exempt organizations.

27 (a) Charitable, etc. organizations. The base income of an
28 organization which is exempt from the federal income tax by
29 reason of Section 501(a) of the Internal Revenue Code shall not
30 be determined under section 203 of this Act, but shall be its
31 unrelated business taxable income as determined under section

1 512 of the Internal Revenue Code, without any deduction for the
2 tax imposed by this Act. The standard exemption provided by
3 section 204 of this Act shall not be allowed in determining the
4 net income of an organization to which this subsection applies.

5 (b) Partnerships. A partnership as such shall not be
6 subject to the tax imposed by subsection 201 (a) and (b) of
7 this Act, but shall be subject to the replacement tax imposed
8 by subsection 201 (c) and (d) of this Act and shall compute its
9 base income as described in subsection (d) of Section 203 of
10 this Act. For taxable years ending on or after December 31,
11 2004, an investment partnership, as defined in Section
12 1501(a)(11.5) of this Act, shall not be subject to the tax
13 imposed by subsections (c) and (d) of Section 201 of this Act.

14 A partnership shall file such returns and other information at
15 such time and in such manner as may be required under Article 5
16 of this Act. The partners in a partnership shall be liable for
17 the replacement tax imposed by subsection 201 (c) and (d) of
18 this Act on such partnership, to the extent such tax is not
19 paid by the partnership, as provided under the laws of Illinois
20 governing the liability of partners for the obligations of a
21 partnership. Persons carrying on business as partners shall be
22 liable for the tax imposed by subsection 201 (a) and (b) of
23 this Act only in their separate or individual capacities.

24 (c) Subchapter S corporations. A Subchapter S corporation
25 shall not be subject to the tax imposed by subsection 201 (a)
26 and (b) of this Act but shall be subject to the replacement tax
27 imposed by subsection 201 (c) and (d) of this Act and shall
28 file such returns and other information at such time and in
29 such manner as may be required under Article 5 of this Act.

30 (d) Combat zone death. An individual relieved from the
31 federal income tax for any taxable year by reason of section
32 692 of the Internal Revenue Code shall not be subject to the
33 tax imposed by this Act for such taxable year.

34 (e) Certain trusts. A common trust fund described in

1 Section 584 of the Internal Revenue Code, and any other trust
2 to the extent that the grantor is treated as the owner thereof
3 under sections 671 through 678 of the Internal Revenue Code
4 shall not be subject to the tax imposed by this Act.

5 (f) Certain business activities. A person not otherwise
6 subject to the tax imposed by this Act shall not become subject
7 to the tax imposed by this Act by reason of:

8 (1) that person's ownership of tangible personal
9 property located at the premises of a printer in this State
10 with which the person has contracted for printing, or

11 (2) activities of the person's employees or agents
12 located solely at the premises of a printer and related to
13 quality control, distribution, or printing services
14 performed by a printer in the State with which the person
15 has contracted for printing.

16 (Source: P.A. 88-361.)

17 (35 ILCS 5/305) (from Ch. 120, par. 3-305)

18 Sec. 305. Allocation of Partnership Income by partnerships
19 and partners other than residents. (a) Allocation of
20 partnership business income by partners other than residents.
21 The respective shares of partners other than residents in so
22 much of the business income of the partnership as is allocated
23 or apportioned to this State in the possession of the
24 partnership shall be taken into account by such partners pro
25 rata in accordance with their respective distributive shares of
26 such partnership income for the partnership's taxable year and
27 allocated to this State.

28 (b) Allocation of partnership nonbusiness income by
29 partners other than residents. The respective shares of
30 partners other than residents in the items of partnership
31 income and deduction not taken into account in computing the
32 business income of a partnership shall be taken into account by
33 such partners pro rata in accordance with their respective

1 distributive shares of such partnership income for the
2 partnership's taxable year, and allocated as if such items had
3 been paid, incurred or accrued directly to such partners in
4 their separate capacities.

5 (c) Allocation or apportionment of base income by
6 partnership. Base income of a partnership shall be allocated or
7 apportioned to this State pursuant to Article 3, in the same
8 manner as it is allocated or apportioned for any other
9 nonresident.

10 (c-5) Taxable income of an investment partnership, as
11 defined in Section 1501(a)(11.5) of this Act, that is
12 distributable to a nonresident partner shall be treated as
13 nonbusiness income and shall be allocated to the partner's
14 state of residence (in the case of an individual) or commercial
15 domicile (in the case of any other person). However, any income
16 distributable to a nonresident partner shall be treated as
17 business income and apportioned as if such income had been
18 received directly by the partner if the partner has made an
19 election under Section 1501(a)(1) of this Act to treat all
20 income as business income or if such income is from investment
21 activity:

22 (1) that is directly or integrally related to any other
23 business activity conducted in this State by the
24 nonresident partner (or any member of that partner's
25 unitary business group);

26 (2) that serves an operational function to any other
27 business activity of the nonresident partner (or any member
28 of that partner's unitary business group) in this State; or

29 (3) where assets of the investment partnership were
30 acquired with working capital from a trade or business
31 activity conducted in this State in which the nonresident
32 partner (or any member of that partner's unitary business
33 group) owns an interest.

34 (d) Cross reference. For allocation of partnership income

1 or deductions by residents, see Section 301(a).

2 (Source: P.A. 84-550.)

3 (35 ILCS 5/1501) (from Ch. 120, par. 15-1501)

4 Sec. 1501. Definitions.

5 (a) In general. When used in this Act, where not otherwise
6 distinctly expressed or manifestly incompatible with the
7 intent thereof:

8 (1) Business income. The term "business income" means
9 all income that may be treated as apportionable business
10 income under the Constitution of the United States.
11 Business income is net of the deductions allocable thereto
12 ~~income arising from transactions and activity in the~~
13 ~~regular course of the taxpayer's trade or business, net of~~
14 ~~the deductions allocable thereto, and includes income from~~
15 ~~tangible and intangible property if the acquisition,~~
16 ~~management, and disposition of the property constitute~~
17 ~~integral parts of the taxpayer's regular trade or business~~
18 ~~operations.~~ Such term does not include compensation or the
19 deductions allocable thereto. For each taxable year
20 beginning on or after January 1, 2003, a taxpayer may elect
21 to treat all income other than compensation as business
22 income. This election shall be made in accordance with
23 rules adopted by the Department and, once made, shall be
24 irrevocable.

25 (2) Commercial domicile. The term "commercial
26 domicile" means the principal place from which the trade or
27 business of the taxpayer is directed or managed.

28 (3) Compensation. The term "compensation" means wages,
29 salaries, commissions and any other form of remuneration
30 paid to employees for personal services.

31 (4) Corporation. The term "corporation" includes
32 associations, joint-stock companies, insurance companies
33 and cooperatives. Any entity, including a limited

1 liability company formed under the Illinois Limited
2 Liability Company Act, shall be treated as a corporation if
3 it is so classified for federal income tax purposes.

4 (5) Department. The term "Department" means the
5 Department of Revenue of this State.

6 (6) Director. The term "Director" means the Director of
7 Revenue of this State.

8 (7) Fiduciary. The term "fiduciary" means a guardian,
9 trustee, executor, administrator, receiver, or any person
10 acting in any fiduciary capacity for any person.

11 (8) Financial organization.

12 (A) The term "financial organization" means any
13 bank, bank holding company, trust company, savings
14 bank, industrial bank, land bank, safe deposit
15 company, private banker, savings and loan association,
16 building and loan association, credit union, currency
17 exchange, cooperative bank, small loan company, sales
18 finance company, investment company, or any person
19 which is owned by a bank or bank holding company. For
20 the purpose of this Section a "person" will include
21 only those persons which a bank holding company may
22 acquire and hold an interest in, directly or
23 indirectly, under the provisions of the Bank Holding
24 Company Act of 1956 (12 U.S.C. 1841, et seq.), except
25 where interests in any person must be disposed of
26 within certain required time limits under the Bank
27 Holding Company Act of 1956.

28 (B) For purposes of subparagraph (A) of this
29 paragraph, the term "bank" includes (i) any entity that
30 is regulated by the Comptroller of the Currency under
31 the National Bank Act, or by the Federal Reserve Board,
32 or by the Federal Deposit Insurance Corporation and
33 (ii) any federally or State chartered bank operating as
34 a credit card bank.

1 (C) For purposes of subparagraph (A) of this
2 paragraph, the term "sales finance company" has the
3 meaning provided in the following item (i) or (ii):

4 (i) A person primarily engaged in one or more
5 of the following businesses: the business of
6 purchasing customer receivables, the business of
7 making loans upon the security of customer
8 receivables, the business of making loans for the
9 express purpose of funding purchases of tangible
10 personal property or services by the borrower, or
11 the business of finance leasing. For purposes of
12 this item (i), "customer receivable" means:

13 (a) a retail installment contract or
14 retail charge agreement within the meaning of
15 the Sales Finance Agency Act, the Retail
16 Installment Sales Act, or the Motor Vehicle
17 Retail Installment Sales Act;

18 (b) an installment, charge, credit, or
19 similar contract or agreement arising from the
20 sale of tangible personal property or services
21 in a transaction involving a deferred payment
22 price payable in one or more installments
23 subsequent to the sale; or

24 (c) the outstanding balance of a contract
25 or agreement described in provisions (a) or (b)
26 of this item (i).

27 A customer receivable need not provide for
28 payment of interest on deferred payments. A sales
29 finance company may purchase a customer receivable
30 from, or make a loan secured by a customer
31 receivable to, the seller in the original
32 transaction or to a person who purchased the
33 customer receivable directly or indirectly from
34 that seller.

1 (ii) A corporation meeting each of the
2 following criteria:

3 (a) the corporation must be a member of an
4 "affiliated group" within the meaning of
5 Section 1504(a) of the Internal Revenue Code,
6 determined without regard to Section 1504(b)
7 of the Internal Revenue Code;

8 (b) more than 50% of the gross income of
9 the corporation for the taxable year must be
10 interest income derived from qualifying loans.
11 A "qualifying loan" is a loan made to a member
12 of the corporation's affiliated group that
13 originates customer receivables (within the
14 meaning of item (i)) or to whom customer
15 receivables originated by a member of the
16 affiliated group have been transferred, to the
17 extent the average outstanding balance of
18 loans from that corporation to members of its
19 affiliated group during the taxable year do not
20 exceed the limitation amount for that
21 corporation. The "limitation amount" for a
22 corporation is the average outstanding
23 balances during the taxable year of customer
24 receivables (within the meaning of item (i))
25 originated by all members of the affiliated
26 group. If the average outstanding balances of
27 the loans made by a corporation to members of
28 its affiliated group exceed the limitation
29 amount, the interest income of that
30 corporation from qualifying loans shall be
31 equal to its interest income from loans to
32 members of its affiliated groups times a
33 fraction equal to the limitation amount
34 divided by the average outstanding balances of

1 the loans made by that corporation to members
2 of its affiliated group;

3 (c) the total of all shareholder's equity
4 (including, without limitation, paid-in
5 capital on common and preferred stock and
6 retained earnings) of the corporation plus the
7 total of all of its loans, advances, and other
8 obligations payable or owed to members of its
9 affiliated group may not exceed 20% of the
10 total assets of the corporation at any time
11 during the tax year; and

12 (d) more than 50% of all interest-bearing
13 obligations of the affiliated group payable to
14 persons outside the group determined in
15 accordance with generally accepted accounting
16 principles must be obligations of the
17 corporation.

18 This amendatory Act of the 91st General Assembly is
19 declaratory of existing law.

20 (D) Subparagraphs (B) and (C) of this paragraph are
21 declaratory of existing law and apply retroactively,
22 for all tax years beginning on or before December 31,
23 1996, to all original returns, to all amended returns
24 filed no later than 30 days after the effective date of
25 this amendatory Act of 1996, and to all notices issued
26 on or before the effective date of this amendatory Act
27 of 1996 under subsection (a) of Section 903, subsection
28 (a) of Section 904, subsection (e) of Section 909, or
29 Section 912. A taxpayer that is a "financial
30 organization" that engages in any transaction with an
31 affiliate shall be a "financial organization" for all
32 purposes of this Act.

33 (E) For all tax years beginning on or before
34 December 31, 1996, a taxpayer that falls within the

1 definition of a "financial organization" under
2 subparagraphs (B) or (C) of this paragraph, but who
3 does not fall within the definition of a "financial
4 organization" under the Proposed Regulations issued by
5 the Department of Revenue on July 19, 1996, may
6 irrevocably elect to apply the Proposed Regulations
7 for all of those years as though the Proposed
8 Regulations had been lawfully promulgated, adopted,
9 and in effect for all of those years. For purposes of
10 applying subparagraphs (B) or (C) of this paragraph to
11 all of those years, the election allowed by this
12 subparagraph applies only to the taxpayer making the
13 election and to those members of the taxpayer's unitary
14 business group who are ordinarily required to
15 apportion business income under the same subsection of
16 Section 304 of this Act as the taxpayer making the
17 election. No election allowed by this subparagraph
18 shall be made under a claim filed under subsection (d)
19 of Section 909 more than 30 days after the effective
20 date of this amendatory Act of 1996.

21 (F) Finance Leases. For purposes of this
22 subsection, a finance lease shall be treated as a loan
23 or other extension of credit, rather than as a lease,
24 regardless of how the transaction is characterized for
25 any other purpose, including the purposes of any
26 regulatory agency to which the lessor is subject. A
27 finance lease is any transaction in the form of a lease
28 in which the lessee is treated as the owner of the
29 leased asset entitled to any deduction for
30 depreciation allowed under Section 167 of the Internal
31 Revenue Code.

32 (9) Fiscal year. The term "fiscal year" means an
33 accounting period of 12 months ending on the last day of
34 any month other than December.

1 (10) Includes and including. The terms "includes" and
2 "including" when used in a definition contained in this Act
3 shall not be deemed to exclude other things otherwise
4 within the meaning of the term defined.

5 (11) Internal Revenue Code. The term "Internal Revenue
6 Code" means the United States Internal Revenue Code of 1954
7 or any successor law or laws relating to federal income
8 taxes in effect for the taxable year.

9 (11.5) Investment partnership.

10 (A) The term "investment partnership" means any
11 entity that is treated as a partnership for federal
12 income tax purposes that meets the following
13 requirements:

14 (i) no less than 90% of the partnership's cost
15 of its total assets consists of qualifying
16 investment securities, deposits at banks or other
17 financial institutions, and office space and
18 equipment reasonably necessary to carry on its
19 activities as an investment partnership;

20 (ii) no less than 90% of its gross income
21 consists of interest, dividends, and gains from
22 the sale or exchange of qualifying investment
23 securities; and

24 (iii) the partnership is not a dealer in
25 qualifying investment securities.

26 (B) For purposes of this paragraph (11.5), the term
27 "qualifying investment securities" includes all of the
28 following:

29 (i) common stock, including preferred or debt
30 securities convertible into common stock, and
31 preferred stock;

32 (ii) bonds, debentures, and other debt
33 securities;

34 (iii) foreign and domestic currency deposits

1 secured by federal, state, or local governmental
2 agencies;

3 (iv) mortgage or asset-backed securities
4 secured by federal, state, or local governmental
5 agencies;

6 (v) repurchase agreements and loan
7 participations;

8 (vi) foreign currency exchange contracts and
9 forward and futures contracts on foreign
10 currencies;

11 (vii) stock and bond index securities and
12 futures contracts and other similar financial
13 securities and futures contracts on those
14 securities;

15 (viii) options for the purchase or sale of any
16 of the securities, currencies, contracts, or
17 financial instruments described in items (i) to
18 (vii), inclusive;

19 (ix) regulated futures contracts;

20 (x) commodities (not described in Section
21 1221(a)(1) of the Internal Revenue Code) or
22 futures, forwards, and options with respect to
23 such commodities, provided, however, that any item
24 of a physical commodity to which title is actually
25 acquired in the partnership's capacity as a dealer
26 in such commodity shall not be a qualifying
27 investment security;

28 (xi) derivatives; and

29 (xii) a partnership interest in another
30 partnership that is an investment partnership.

31 (12) Mathematical error. The term "mathematical error"
32 includes the following types of errors, omissions, or
33 defects in a return filed by a taxpayer which prevents
34 acceptance of the return as filed for processing:

1 (A) arithmetic errors or incorrect computations on
2 the return or supporting schedules;

3 (B) entries on the wrong lines;

4 (C) omission of required supporting forms or
5 schedules or the omission of the information in whole
6 or in part called for thereon; and

7 (D) an attempt to claim, exclude, deduct, or
8 improperly report, in a manner directly contrary to the
9 provisions of the Act and regulations thereunder any
10 item of income, exemption, deduction, or credit.

11 (13) Nonbusiness income. The term "nonbusiness income"
12 means all income other than business income or
13 compensation.

14 (14) Nonresident. The term "nonresident" means a
15 person who is not a resident.

16 (15) Paid, incurred and accrued. The terms "paid",
17 "incurred" and "accrued" shall be construed according to
18 the method of accounting upon the basis of which the
19 person's base income is computed under this Act.

20 (16) Partnership and partner. The term "partnership"
21 includes a syndicate, group, pool, joint venture or other
22 unincorporated organization, through or by means of which
23 any business, financial operation, or venture is carried
24 on, and which is not, within the meaning of this Act, a
25 trust or estate or a corporation; and the term "partner"
26 includes a member in such syndicate, group, pool, joint
27 venture or organization.

28 The term "partnership" includes any entity, including
29 a limited liability company formed under the Illinois
30 Limited Liability Company Act, classified as a partnership
31 for federal income tax purposes.

32 The term "partnership" does not include a syndicate,
33 group, pool, joint venture, or other unincorporated
34 organization established for the sole purpose of playing

1 the Illinois State Lottery.

2 (17) Part-year resident. The term "part-year resident"
3 means an individual who became a resident during the
4 taxable year or ceased to be a resident during the taxable
5 year. Under Section 1501(a)(20)(A)(i) residence commences
6 with presence in this State for other than a temporary or
7 transitory purpose and ceases with absence from this State
8 for other than a temporary or transitory purpose. Under
9 Section 1501(a)(20)(A)(ii) residence commences with the
10 establishment of domicile in this State and ceases with the
11 establishment of domicile in another State.

12 (18) Person. The term "person" shall be construed to
13 mean and include an individual, a trust, estate,
14 partnership, association, firm, company, corporation,
15 limited liability company, or fiduciary. For purposes of
16 Section 1301 and 1302 of this Act, a "person" means (i) an
17 individual, (ii) a corporation, (iii) an officer, agent, or
18 employee of a corporation, (iv) a member, agent or employee
19 of a partnership, or (v) a member, manager, employee,
20 officer, director, or agent of a limited liability company
21 who in such capacity commits an offense specified in
22 Section 1301 and 1302.

23 (18A) Records. The term "records" includes all data
24 maintained by the taxpayer, whether on paper, microfilm,
25 microfiche, or any type of machine-sensible data
26 compilation.

27 (19) Regulations. The term "regulations" includes
28 rules promulgated and forms prescribed by the Department.

29 (20) Resident. The term "resident" means:

30 (A) an individual (i) who is in this State for
31 other than a temporary or transitory purpose during the
32 taxable year; or (ii) who is domiciled in this State
33 but is absent from the State for a temporary or
34 transitory purpose during the taxable year;

1 (B) The estate of a decedent who at his or her
2 death was domiciled in this State;

3 (C) A trust created by a will of a decedent who at
4 his death was domiciled in this State; and

5 (D) An irrevocable trust, the grantor of which was
6 domiciled in this State at the time such trust became
7 irrevocable. For purpose of this subparagraph, a trust
8 shall be considered irrevocable to the extent that the
9 grantor is not treated as the owner thereof under
10 Sections 671 through 678 of the Internal Revenue Code.

11 (21) Sales. The term "sales" means all gross receipts
12 of the taxpayer not allocated under Sections 301, 302 and
13 303.

14 (22) State. The term "state" when applied to a
15 jurisdiction other than this State means any state of the
16 United States, the District of Columbia, the Commonwealth
17 of Puerto Rico, any Territory or Possession of the United
18 States, and any foreign country, or any political
19 subdivision of any of the foregoing. For purposes of the
20 foreign tax credit under Section 601, the term "state"
21 means any state of the United States, the District of
22 Columbia, the Commonwealth of Puerto Rico, and any
23 territory or possession of the United States, or any
24 political subdivision of any of the foregoing, effective
25 for tax years ending on or after December 31, 1989.

26 (23) Taxable year. The term "taxable year" means the
27 calendar year, or the fiscal year ending during such
28 calendar year, upon the basis of which the base income is
29 computed under this Act. "Taxable year" means, in the case
30 of a return made for a fractional part of a year under the
31 provisions of this Act, the period for which such return is
32 made.

33 (24) Taxpayer. The term "taxpayer" means any person
34 subject to the tax imposed by this Act.

1 (25) International banking facility. The term
2 international banking facility shall have the same meaning
3 as is set forth in the Illinois Banking Act or as is set
4 forth in the laws of the United States or regulations of
5 the Board of Governors of the Federal Reserve System.

6 (26) Income Tax Return Preparer.

7 (A) The term "income tax return preparer" means any
8 person who prepares for compensation, or who employs
9 one or more persons to prepare for compensation, any
10 return of tax imposed by this Act or any claim for
11 refund of tax imposed by this Act. The preparation of a
12 substantial portion of a return or claim for refund
13 shall be treated as the preparation of that return or
14 claim for refund.

15 (B) A person is not an income tax return preparer
16 if all he or she does is

17 (i) furnish typing, reproducing, or other
18 mechanical assistance;

19 (ii) prepare returns or claims for refunds for
20 the employer by whom he or she is regularly and
21 continuously employed;

22 (iii) prepare as a fiduciary returns or claims
23 for refunds for any person; or

24 (iv) prepare claims for refunds for a taxpayer
25 in response to any notice of deficiency issued to
26 that taxpayer or in response to any waiver of
27 restriction after the commencement of an audit of
28 that taxpayer or of another taxpayer if a
29 determination in the audit of the other taxpayer
30 directly or indirectly affects the tax liability
31 of the taxpayer whose claims he or she is
32 preparing.

33 (27) Unitary business group. The term "unitary
34 business group" means a group of persons related through

1 common ownership whose business activities are integrated
2 with, dependent upon and contribute to each other. The
3 group will not include those members whose business
4 activity outside the United States is 80% or more of any
5 such member's total business activity; for purposes of this
6 paragraph and clause (a)(3)(B)(ii) of Section 304,
7 business activity within the United States shall be
8 measured by means of the factors ordinarily applicable
9 under subsections (a), (b), (c), (d), or (h) of Section 304
10 except that, in the case of members ordinarily required to
11 apportion business income by means of the 3 factor formula
12 of property, payroll and sales specified in subsection (a)
13 of Section 304, including the formula as weighted in
14 subsection (h) of Section 304, such members shall not use
15 the sales factor in the computation and the results of the
16 property and payroll factor computations of subsection (a)
17 of Section 304 shall be divided by 2 (by one if either the
18 property or payroll factor has a denominator of zero). The
19 computation required by the preceding sentence shall, in
20 each case, involve the division of the member's property,
21 payroll, or revenue miles in the United States, insurance
22 premiums on property or risk in the United States, or
23 financial organization business income from sources within
24 the United States, as the case may be, by the respective
25 worldwide figures for such items. Common ownership in the
26 case of corporations is the direct or indirect control or
27 ownership of more than 50% of the outstanding voting stock
28 of the persons carrying on unitary business activity.
29 Unitary business activity can ordinarily be illustrated
30 where the activities of the members are: (1) in the same
31 general line (such as manufacturing, wholesaling,
32 retailing of tangible personal property, insurance,
33 transportation or finance); or (2) are steps in a
34 vertically structured enterprise or process (such as the

1 steps involved in the production of natural resources,
2 which might include exploration, mining, refining, and
3 marketing); and, in either instance, the members are
4 functionally integrated through the exercise of strong
5 centralized management (where, for example, authority over
6 such matters as purchasing, financing, tax compliance,
7 product line, personnel, marketing and capital investment
8 is not left to each member). In no event, however, will any
9 unitary business group include members which are
10 ordinarily required to apportion business income under
11 different subsections of Section 304 except that for tax
12 years ending on or after December 31, 1987 this prohibition
13 shall not apply to a unitary business group composed of one
14 or more taxpayers all of which apportion business income
15 pursuant to subsection (b) of Section 304, or all of which
16 apportion business income pursuant to subsection (d) of
17 Section 304, and a holding company of such single-factor
18 taxpayers (see definition of "financial organization" for
19 rule regarding holding companies of financial
20 organizations). If a unitary business group would, but for
21 the preceding sentence, include members that are
22 ordinarily required to apportion business income under
23 different subsections of Section 304, then for each
24 subsection of Section 304 for which there are two or more
25 members, there shall be a separate unitary business group
26 composed of such members. For purposes of the preceding two
27 sentences, a member is "ordinarily required to apportion
28 business income" under a particular subsection of Section
29 304 if it would be required to use the apportionment method
30 prescribed by such subsection except for the fact that it
31 derives business income solely from Illinois. If the
32 unitary business group members' accounting periods differ,
33 the common parent's accounting period or, if there is no
34 common parent, the accounting period of the member that is

1 expected to have, on a recurring basis, the greatest
2 Illinois income tax liability must be used to determine
3 whether to use the apportionment method provided in
4 subsection (a) or subsection (h) of Section 304. The
5 prohibition against membership in a unitary business group
6 for taxpayers ordinarily required to apportion income
7 under different subsections of Section 304 does not apply
8 to taxpayers required to apportion income under subsection
9 (a) and subsection (h) of Section 304. The provisions of
10 this amendatory Act of 1998 apply to tax years ending on or
11 after December 31, 1998.

12 (28) Subchapter S corporation. The term "Subchapter S
13 corporation" means a corporation for which there is in
14 effect an election under Section 1362 of the Internal
15 Revenue Code, or for which there is a federal election to
16 opt out of the provisions of the Subchapter S Revision Act
17 of 1982 and have applied instead the prior federal
18 Subchapter S rules as in effect on July 1, 1982.

19 (b) Other definitions.

20 (1) Words denoting number, gender, and so forth, when
21 used in this Act, where not otherwise distinctly expressed
22 or manifestly incompatible with the intent thereof:

23 (A) Words importing the singular include and apply
24 to several persons, parties or things;

25 (B) Words importing the plural include the
26 singular; and

27 (C) Words importing the masculine gender include
28 the feminine as well.

29 (2) "Company" or "association" as including successors
30 and assigns. The word "company" or "association", when used
31 in reference to a corporation, shall be deemed to embrace
32 the words "successors and assigns of such company or
33 association", and in like manner as if these last-named

1 words, or words of similar import, were expressed.

2 (3) Other terms. Any term used in any Section of this
3 Act with respect to the application of, or in connection
4 with, the provisions of any other Section of this Act shall
5 have the same meaning as in such other Section.

6 (Source: P.A. 91-535, eff. 1-1-00; 91-913, eff. 1-1-01; 92-846,
7 eff. 8-23-02.)".