

HB0184



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB0184

Introduced 1/12/2005, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act to allow individual taxpayers, 65 years of age or older, a deduction for unreimbursed amounts spent on home health care services. Applicable to tax years ending on or after December 31, 2005. Sunsets the deduction after 10 years. Effective immediately.

LRB094 02585 BDD 32586 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to 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;

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;

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

25 This paragraph shall not apply to the following:

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

32 (ii) an item of interest paid, accrued, or
33 incurred, directly or indirectly, to a foreign
34 person if the taxpayer can establish, based on a
35 preponderance of the evidence, both of the
36 following:

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

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

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

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

26 Nothing in this subsection shall preclude the
27 Director from making any other adjustment
28 otherwise allowed under Section 404 of this Act for
29 any tax year beginning after the effective date of
30 this amendment provided such adjustment is made
31 pursuant to regulation adopted by the Department
32 and such regulations provide methods and standards
33 by which the Department will utilize its authority
34 under Section 404 of this Act;

35 (D-18) For taxable years ending on or after
36 December 31, 2004, an amount equal to the amount of

1 intangible expenses and costs otherwise allowed as a
2 deduction in computing base income, and that were paid,
3 accrued, or incurred, directly or indirectly, to a
4 foreign person who would be a member of the same
5 unitary business group but for the fact that the
6 foreign person's business activity outside the United
7 States is 80% or more of that person's total business
8 activity. The addition modification required by this
9 subparagraph shall be reduced to the extent that
10 dividends were included in base income of the unitary
11 group for the same taxable year and received by the
12 taxpayer or by a member of the taxpayer's unitary
13 business group (including amounts included in gross
14 income under Sections 951 through 964 of the Internal
15 Revenue Code and amounts included in gross income under
16 Section 78 of the Internal Revenue Code) with respect
17 to the stock of the same person to whom the intangible
18 expenses and costs were directly or indirectly paid,
19 incurred, or accrued. The preceding sentence does not
20 apply to the extent that the same dividends caused a
21 reduction to the addition modification required under
22 Section 203(a)(2)(D-17) of this Act. As used in this
23 subparagraph, the term "intangible expenses and costs"
24 includes (1) expenses, losses, and costs for, or
25 related to, the direct or indirect acquisition, use,
26 maintenance or management, ownership, sale, exchange,
27 or any other disposition of intangible property; (2)
28 losses incurred, directly or indirectly, from
29 factoring transactions or discounting transactions;
30 (3) royalty, patent, technical, and copyright fees;
31 (4) licensing fees; and (5) other similar expenses and
32 costs. For purposes of this subparagraph, "intangible
33 property" includes patents, patent applications, trade
34 names, trademarks, service marks, copyrights, mask
35 works, trade secrets, and similar types of intangible
36 assets.

1 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or
27 indirectly, from a transaction with a foreign
28 person if the taxpayer establishes by clear and
29 convincing evidence, that the adjustments are
30 unreasonable; or if the taxpayer and the Director
31 agree in writing to the application or use of an
32 alternative method of apportionment under Section
33 304(f);

34 Nothing in this subsection shall preclude the
35 Director from making any other adjustment
36 otherwise allowed under Section 404 of this Act for

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

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

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

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

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

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

20 (G) The valuation limitation amount;

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

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

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

35 (K) An amount equal to those dividends included in
36 such total that were paid by a corporation that

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

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

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

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

35 (O) An amount equal to any contribution made to a
36 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

35 (V) Beginning with tax years ending on or after
36 December 31, 1995 and ending with tax years ending on

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

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

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

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

28 (Y) For taxable years beginning on or after January
29 1, 2002 and ending on or before December 31, 2004,
30 moneys contributed in the taxable year to a College
31 Savings Pool account under Section 16.5 of the State
32 Treasurer Act, except that amounts excluded from gross
33 income under Section 529(c)(3)(C)(i) of the Internal
34 Revenue Code shall not be considered moneys
35 contributed under this subparagraph (Y). For taxable
36 years beginning on or after January 1, 2005, a maximum

1 of \$10,000 contributed in the taxable year to (i) a
2 College Savings Pool account under Section 16.5 of the
3 State Treasurer Act or (ii) the Illinois Prepaid
4 Tuition Trust Fund, except that amounts excluded from
5 gross income under Section 529(c)(3)(C)(i) of the
6 Internal Revenue Code shall not be considered moneys
7 contributed under this subparagraph (Y). This
8 subparagraph (Y) is exempt from the provisions of
9 Section 250;

10 (Z) For taxable years 2001 and thereafter, for the
11 taxable year in which the bonus depreciation deduction
12 (30% of the adjusted basis of the qualified property)
13 is taken on the taxpayer's federal income tax return
14 under subsection (k) of Section 168 of the Internal
15 Revenue Code and for each applicable taxable year
16 thereafter, an amount equal to "x", where:

17 (1) "y" equals the amount of the depreciation
18 deduction taken for the taxable year on the
19 taxpayer's federal income tax return on property
20 for which the bonus depreciation deduction (30% of
21 the adjusted basis of the qualified property) was
22 taken in any year under subsection (k) of Section
23 168 of the Internal Revenue Code, but not including
24 the bonus depreciation deduction; and

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

27 The aggregate amount deducted under this
28 subparagraph in all taxable years for any one piece of
29 property may not exceed the amount of the bonus
30 depreciation deduction (30% of the adjusted basis of
31 the qualified property) taken on that property on the
32 taxpayer's federal income tax return under subsection
33 (k) of Section 168 of the Internal Revenue Code;

34 (AA) If the taxpayer reports a capital gain or loss
35 on the taxpayer's federal income tax return for the
36 taxable year based on a sale or transfer of property

1 for which the taxpayer was required in any taxable year
2 to make an addition modification under subparagraph
3 (D-15), then an amount equal to that addition
4 modification.

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

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

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

27 (DD) An amount equal to the interest income taken
28 into account for the taxable year (net of the
29 deductions allocable thereto) with respect to
30 transactions with a foreign person who would be a
31 member of the taxpayer's unitary business group but for
32 the fact that the foreign person's business activity
33 outside the United States is 80% or more of that
34 person's total business activity, but not to exceed the
35 addition modification required to be made for the same
36 taxable year under Section 203(a)(2)(D-17) for

1 interest paid, accrued, or incurred, directly or
2 indirectly, to the same foreign person; ~~and~~

3 (EE) An amount equal to the income from intangible
4 property taken into account for the taxable year (net
5 of the deductions allocable thereto) with respect to
6 transactions with a foreign person who would be a
7 member of the taxpayer's unitary business group but for
8 the fact that the foreign person's business activity
9 outside the United States is 80% or more of that
10 person's total business activity, but not to exceed the
11 addition modification required to be made for the same
12 taxable year under Section 203(a)(2)(D-18) for
13 intangible expenses and costs paid, accrued, or
14 incurred, directly or indirectly, to the same foreign
15 person; and

16 (FF) Beginning with tax years ending on or after
17 December 31, 2005, and ending with tax years ending on
18 or before December 30, 2015, all unreimbursed amounts,
19 but not more than a total amount that would result in a
20 tax liability of less than zero for the taxpayer,
21 expended by persons 65 years of age or older for home
22 health services, as defined by Section 2.05 of the Home
23 Health Agency Licensing Act, if provided by a public or
24 private organization licensed under that Act, or for
25 services provided to a person at that person's
26 residence by a licensed practical nurse or registered
27 nurse in accordance with a plan of treatment for
28 illness or infirmity prescribed by a physician.

29 (b) Corporations.

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

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

1 (A) An amount equal to all amounts paid or accrued
2 to the taxpayer as interest and all distributions
3 received from regulated investment companies during
4 the taxable year to the extent excluded from gross
5 income in the computation of taxable income;

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

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

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

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

33 (i) the addition modification relating to the
34 net operating loss carried back or forward to the
35 taxable year from any taxable year ending prior to
36 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
35 years under subparagraph (T) with respect to that
36 property.

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

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

24 This paragraph shall not apply to the following:

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

31 (ii) an item of interest paid, accrued, or
32 incurred, directly or indirectly, to a foreign
33 person if the taxpayer can establish, based on a
34 preponderance of the evidence, both of the
35 following:

36 (a) the foreign person, during the same

1 taxable year, paid, accrued, or incurred, the
2 interest to a person that is not a related
3 member, and

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

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

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

25 Nothing in this subsection shall preclude the
26 Director from making any other adjustment
27 otherwise allowed under Section 404 of this Act for
28 any tax year beginning after the effective date of
29 this amendment provided such adjustment is made
30 pursuant to regulation adopted by the Department
31 and such regulations provide methods and standards
32 by which the Department will utilize its authority
33 under Section 404 of this Act;

34 (E-13) For taxable years ending on or after
35 December 31, 2004, an amount equal to the amount of
36 intangible expenses and costs otherwise allowed as a

1 deduction in computing base income, and that were paid,
2 accrued, or incurred, directly or indirectly, to a
3 foreign person who would be a member of the same
4 unitary business group but for the fact that the
5 foreign person's business activity outside the United
6 States is 80% or more of that person's total business
7 activity. The addition modification required by this
8 subparagraph shall be reduced to the extent that
9 dividends were included in base income of the unitary
10 group for the same taxable year and received by the
11 taxpayer or by a member of the taxpayer's unitary
12 business group (including amounts included in gross
13 income pursuant to Sections 951 through 964 of the
14 Internal Revenue Code and amounts included in gross
15 income under Section 78 of the Internal Revenue Code)
16 with respect to the stock of the same person to whom
17 the intangible expenses and costs were directly or
18 indirectly paid, incurred, or accrued. The preceding
19 sentence shall not apply to the extent that the same
20 dividends caused a reduction to the addition
21 modification required under Section 203(b)(2)(E-12) of
22 this Act. As used in this subparagraph, the term
23 "intangible expenses and costs" includes (1) expenses,
24 losses, and costs for, or related to, the direct or
25 indirect acquisition, use, maintenance or management,
26 ownership, sale, exchange, or any other disposition of
27 intangible property; (2) losses incurred, directly or
28 indirectly, from factoring transactions or discounting
29 transactions; (3) royalty, patent, technical, and
30 copyright fees; (4) licensing fees; and (5) other
31 similar expenses and costs. For purposes of this
32 subparagraph, "intangible property" includes patents,
33 patent applications, trade names, trademarks, service
34 marks, copyrights, mask works, trade secrets, and
35 similar types of intangible assets.

36 This paragraph shall not apply to the following:

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

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

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

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

24 (iii) any item of intangible expense or cost
25 paid, accrued, or incurred, directly or
26 indirectly, from a transaction with a foreign
27 person if the taxpayer establishes by clear and
28 convincing evidence, that the adjustments are
29 unreasonable; or if the taxpayer and the Director
30 agree in writing to the application or use of an
31 alternative method of apportionment under Section
32 304(f);

33 Nothing in this subsection shall preclude the
34 Director from making any other adjustment
35 otherwise allowed under Section 404 of this Act for
36 any tax year beginning after the effective date of

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

6 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
35 reason of the Constitution, treaties or statutes of the
36 United States; provided that, in the case of any

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

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

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

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

1 that portion of the total interest paid by the borrower
2 with respect to such loan attributable to the eligible
3 property as calculated under the previous sentence;

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

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

1 (O) An amount equal to: (i) 85% for taxable years
2 ending on or before December 31, 1992, or, a percentage
3 equal to the percentage allowable under Section
4 243(a)(1) of the Internal Revenue Code of 1986 for
5 taxable years ending after December 31, 1992, of the
6 amount by which dividends included in taxable income
7 and received from a corporation that is not created or
8 organized under the laws of the United States or any
9 state or political subdivision thereof, including, for
10 taxable years ending on or after December 31, 1988,
11 dividends received or deemed received or paid or deemed
12 paid under Sections 951 through 964 of the Internal
13 Revenue Code, exceed the amount of the modification
14 provided under subparagraph (G) of paragraph (2) of
15 this subsection (b) which is related to such dividends;
16 plus (ii) 100% of the amount by which dividends,
17 included in taxable income and received, including,
18 for taxable years ending on or after December 31, 1988,
19 dividends received or deemed received or paid or deemed
20 paid under Sections 951 through 964 of the Internal
21 Revenue Code, from any such corporation specified in
22 clause (i) that would but for the provisions of Section
23 1504 (b) (3) of the Internal Revenue Code be treated as
24 a member of the affiliated group which includes the
25 dividend recipient, exceed the amount of the
26 modification provided under subparagraph (G) of
27 paragraph (2) of this subsection (b) which is related
28 to such dividends;

29 (P) An amount equal to any contribution made to a
30 job training project established pursuant to the Tax
31 Increment Allocation Redevelopment Act;

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

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

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

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

28 (1) "y" equals the amount of the depreciation
29 deduction taken for the taxable year on the
30 taxpayer's federal income tax return on property
31 for which the bonus depreciation deduction (30% of
32 the adjusted basis of the qualified property) was
33 taken in any year under subsection (k) of Section
34 168 of the Internal Revenue Code, but not including
35 the bonus depreciation deduction; and

36 (2) "x" equals "y" multiplied by 30 and then

1 divided by 70 (or "y" multiplied by 0.429).

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

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

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

19 (V) The amount of: (i) any interest income (net of
20 the deductions allocable thereto) taken into account
21 for the taxable year with respect to a transaction with
22 a taxpayer that is required to make an addition
23 modification with respect to such transaction under
24 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
25 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
26 the amount of such addition modification and (ii) any
27 income from intangible property (net of the deductions
28 allocable thereto) taken into account for the taxable
29 year with respect to a transaction with a taxpayer that
30 is required to make an addition modification with
31 respect to such transaction under Section
32 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
33 203(d)(2)(D-8), but not to exceed the amount of such
34 addition modification;

35 (W) An amount equal to the interest income taken
36 into account for the taxable year (net of the

1 deductions allocable thereto) with respect to
2 transactions with a foreign person who would be a
3 member of the taxpayer's unitary business group but for
4 the fact that the foreign person's business activity
5 outside the United States is 80% or more of that
6 person's total business activity, but not to exceed the
7 addition modification required to be made for the same
8 taxable year under Section 203(b)(2)(E-12) for
9 interest paid, accrued, or incurred, directly or
10 indirectly, to the same foreign person; and

11 (X) An amount equal to the income from intangible
12 property taken into account for the taxable year (net
13 of the deductions allocable thereto) with respect to
14 transactions with a foreign person who would be a
15 member of the taxpayer's unitary business group but for
16 the fact that the foreign person's business activity
17 outside the United States is 80% or more of that
18 person's total business activity, but not to exceed the
19 addition modification required to be made for the same
20 taxable year under Section 203(b)(2)(E-13) for
21 intangible expenses and costs paid, accrued, or
22 incurred, directly or indirectly, to the same foreign
23 person.

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

28 (c) Trusts and estates.

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

32 (2) Modifications. Subject to the provisions of
33 paragraph (3), the taxable income referred to in paragraph
34 (1) shall be modified by adding thereto the sum of the
35 following amounts:

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

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

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

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

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

28 (i) 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 be reduced by the amount of
32 addition modification under this subparagraph (E)
33 which related to that net operating loss and which
34 was taken into account in calculating the base
35 income of an earlier taxable year, and

36 (ii) the addition modification relating to the

1 net operating loss carried back or forward to the
2 taxable year from any taxable year ending prior to
3 December 31, 1986 shall not exceed the amount of
4 such carryback or carryforward;

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

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

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

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

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

33 (G-11) If the taxpayer reports a capital gain or
34 loss on the taxpayer's federal income tax return for
35 the taxable year based on a sale or transfer of
36 property for which the taxpayer was required in any

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

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

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

29 This paragraph shall not apply to the following:

30 (i) an item of interest paid, accrued, or
31 incurred, directly or indirectly, to a foreign
32 person who is subject in a foreign country or
33 state, other than a state which requires mandatory
34 unitary reporting, to a tax on or measured by net
35 income with respect to such interest; or

36 (ii) an item of interest paid, accrued, or

1 incurred, directly or indirectly, to a foreign
2 person if the taxpayer can establish, based on a
3 preponderance of the evidence, both of the
4 following:

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

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

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

22 (iv) an item of interest paid, accrued, or
23 incurred, directly or indirectly, to a foreign
24 person if the taxpayer establishes by clear and
25 convincing evidence that the adjustments are
26 unreasonable; or if the taxpayer and the Director
27 agree in writing to the application or use of an
28 alternative method of apportionment under Section
29 304(f).

30 Nothing in this subsection shall preclude the
31 Director from making any other adjustment
32 otherwise allowed under Section 404 of this Act for
33 any tax year beginning after the effective date of
34 this amendment provided such adjustment is made
35 pursuant to regulation adopted by the Department
36 and such regulations provide methods and standards

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

3 (G-13) For taxable years ending on or after
4 December 31, 2004, an amount equal to the amount of
5 intangible expenses and costs otherwise allowed as a
6 deduction in computing base income, and that were paid,
7 accrued, or incurred, directly or indirectly, to a
8 foreign person who would be a member of the same
9 unitary business group but for the fact that the
10 foreign person's business activity outside the United
11 States is 80% or more of that person's total business
12 activity. The addition modification required by this
13 subparagraph shall be reduced to the extent that
14 dividends were included in base income of the unitary
15 group for the same taxable year and received by the
16 taxpayer or by a member of the taxpayer's unitary
17 business group (including amounts included in gross
18 income pursuant to Sections 951 through 964 of the
19 Internal Revenue Code and amounts included in gross
20 income under Section 78 of the Internal Revenue Code)
21 with respect to the stock of the same person to whom
22 the intangible expenses and costs were directly or
23 indirectly paid, incurred, or accrued. The preceding
24 sentence shall not apply to the extent that the same
25 dividends caused a reduction to the addition
26 modification required under Section 203(c)(2)(G-12) of
27 this Act. As used in this subparagraph, the term
28 "intangible expenses and costs" includes: (1)
29 expenses, losses, and costs for or related to the
30 direct or indirect acquisition, use, maintenance or
31 management, ownership, sale, exchange, or any other
32 disposition of intangible property; (2) losses
33 incurred, directly or indirectly, from factoring
34 transactions or discounting transactions; (3) royalty,
35 patent, technical, and copyright fees; (4) licensing
36 fees; and (5) other similar expenses and costs. For

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

5 This paragraph shall not apply to the following:

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

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

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

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

29 (iii) any item of intangible expense or cost
30 paid, accrued, or incurred, directly or
31 indirectly, from a transaction with a foreign
32 person if the taxpayer establishes by clear and
33 convincing evidence, that the adjustments are
34 unreasonable; or if the taxpayer and the Director
35 agree in writing to the application or use of an
36 alternative method of apportionment under Section

1 304(f);

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

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

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

24 (I) The valuation limitation amount;

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

28 (K) An amount equal to all amounts included in
29 taxable income as modified by subparagraphs (A), (B),
30 (C), (D), (E), (F) and (G) which are exempt from
31 taxation by this State either by reason of its statutes
32 or Constitution or by reason of the Constitution,
33 treaties or statutes of the United States; provided
34 that, in the case of any statute of this State that
35 exempts income derived from bonds or other obligations
36 from the tax imposed under this Act, the amount

1 exempted shall be the interest net of bond premium
2 amortization;

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

16 (M) An amount equal to those dividends included in
17 such total which were paid by a corporation which
18 conducts business operations in an Enterprise Zone or
19 zones created under the Illinois Enterprise Zone Act
20 and conducts substantially all of its operations in an
21 Enterprise Zone or Zones;

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

25 (O) An amount equal to those dividends included in
26 such total that were paid by a corporation that
27 conducts business operations in a federally designated
28 Foreign Trade Zone or Sub-Zone and that is designated a
29 High Impact Business located in Illinois; provided
30 that dividends eligible for the deduction provided in
31 subparagraph (M) of paragraph (2) of this subsection
32 shall not be eligible for the deduction provided under
33 this subparagraph (O);

34 (P) An amount equal to the amount of the deduction
35 used to compute the federal income tax credit for
36 restoration of substantial amounts held under claim of

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

3 (Q) For taxable year 1999 and thereafter, an amount
4 equal to the amount of any (i) distributions, to the
5 extent includible in gross income for federal income
6 tax purposes, made to the taxpayer because of his or
7 her status as a victim of persecution for racial or
8 religious reasons by Nazi Germany or any other Axis
9 regime or as an heir of the victim and (ii) items of
10 income, to the extent includible in gross income for
11 federal income tax purposes, attributable to, derived
12 from or in any way related to assets stolen from,
13 hidden from, or otherwise lost to a victim of
14 persecution for racial or religious reasons by Nazi
15 Germany or any other Axis regime immediately prior to,
16 during, and immediately after World War II, including,
17 but not limited to, interest on the proceeds receivable
18 as insurance under policies issued to a victim of
19 persecution for racial or religious reasons by Nazi
20 Germany or any other Axis regime by European insurance
21 companies immediately prior to and during World War II;
22 provided, however, this subtraction from federal
23 adjusted gross income does not apply to assets acquired
24 with such assets or with the proceeds from the sale of
25 such assets; provided, further, this paragraph shall
26 only apply to a taxpayer who was the first recipient of
27 such assets after their recovery and who is a victim of
28 persecution for racial or religious reasons by Nazi
29 Germany or any other Axis regime or as an heir of the
30 victim. The amount of and the eligibility for any
31 public assistance, benefit, or similar entitlement is
32 not affected by the inclusion of items (i) and (ii) of
33 this paragraph in gross income for federal income tax
34 purposes. This paragraph is exempt from the provisions
35 of Section 250;

36 (R) 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;

24 (S) 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 (G-10), 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;

34 (T) The amount of (i) any interest income (net of
35 the deductions allocable thereto) taken into account
36 for the taxable year with respect to a transaction with

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

14 (U) An amount equal to the interest income taken
15 into account for the taxable year (net of the
16 deductions allocable thereto) with respect to
17 transactions with a foreign person who would be a
18 member of the taxpayer's unitary business group but for
19 the fact the foreign person's business activity
20 outside the United States is 80% or more of that
21 person's total business activity, but not to exceed the
22 addition modification required to be made for the same
23 taxable year under Section 203(c)(2)(G-12) for
24 interest paid, accrued, or incurred, directly or
25 indirectly, to the same foreign person; and

26 (V) An amount equal to the income from intangible
27 property taken into account for the taxable year (net
28 of the deductions allocable thereto) with respect to
29 transactions with a foreign person who would be a
30 member of the taxpayer's unitary business group but for
31 the fact that the foreign person's business activity
32 outside the United States is 80% or more of that
33 person's total business activity, but not to exceed the
34 addition modification required to be made for the same
35 taxable year under Section 203(c)(2)(G-13) for
36 intangible expenses and costs paid, accrued, or

1 incurred, directly or indirectly, to the same foreign
2 person.

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

10 (d) Partnerships.

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

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

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

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

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

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

31 (D-5) For taxable years 2001 and thereafter, an
32 amount equal to the bonus depreciation deduction (30%
33 of the adjusted basis of the qualified property) taken
34 on the taxpayer's federal income tax return for the
35 taxable year under subsection (k) of Section 168 of the

1 Internal Revenue Code;

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

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

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

33 This paragraph shall not apply to the following:

34 (i) an item of interest paid, accrued, or
35 incurred, directly or indirectly, to a foreign
36 person who is subject in a foreign country or

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

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

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

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

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

26 (iv) an item of interest paid, accrued, or
27 incurred, directly or indirectly, to a foreign
28 person if the taxpayer establishes by clear and
29 convincing evidence that the adjustments are
30 unreasonable; or if the taxpayer and the Director
31 agree in writing to the application or use of an
32 alternative method of apportionment under Section
33 304(f).

34 Nothing in this subsection shall preclude the
35 Director from making any other adjustment
36 otherwise allowed under Section 404 of this Act for

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

7 (D-8) For taxable years ending on or after December
8 31, 2004, an amount equal to the amount of intangible
9 expenses and costs otherwise allowed as a deduction in
10 computing base income, and that were paid, accrued, or
11 incurred, directly or indirectly, to a foreign person
12 who would be a member of the same unitary business
13 group but for the fact that the foreign person's
14 business activity outside the United States is 80% or
15 more of that person's total business activity. The
16 addition modification required by this subparagraph
17 shall be reduced to the extent that dividends were
18 included in base income of the unitary group for the
19 same taxable year and received by the taxpayer or by a
20 member of the taxpayer's unitary business group
21 (including amounts included in gross income pursuant
22 to Sections 951 through 964 of the Internal Revenue
23 Code and amounts included in gross income under Section
24 78 of the Internal Revenue Code) with respect to the
25 stock of the same person to whom the intangible
26 expenses and costs were directly or indirectly paid,
27 incurred or accrued. The preceding sentence shall not
28 apply to the extent that the same dividends caused a
29 reduction to the addition modification required under
30 Section 203(d)(2)(D-7) of this Act. As used in this
31 subparagraph, the term "intangible expenses and costs"
32 includes (1) expenses, losses, and costs for, or
33 related to, the direct or indirect acquisition, use,
34 maintenance or management, ownership, sale, exchange,
35 or any other disposition of intangible property; (2)
36 losses incurred, directly or indirectly, from

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

9 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the
27 intangible expense or cost between the
28 taxpayer and the foreign person did not have as
29 a principal purpose the avoidance of Illinois
30 income tax, and is paid pursuant to a contract
31 or agreement that reflects arm's-length terms;
32 or

33 (iii) any item of intangible expense or cost
34 paid, accrued, or incurred, directly or
35 indirectly, from a transaction with a foreign
36 person if the taxpayer establishes by clear and

1 convincing evidence, that the adjustments are
2 unreasonable; or if the taxpayer and the Director
3 agree in writing to the application or use of an
4 alternative method of apportionment under Section
5 304(f);

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

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

17 (E) The valuation limitation amount;

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

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

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

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

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

21 (K) An amount equal to those dividends included in
22 such total which were paid by a corporation which
23 conducts business operations in an Enterprise Zone or
24 zones created under the Illinois Enterprise Zone Act,
25 enacted by the 82nd General Assembly, and conducts
26 substantially all of its operations in an Enterprise
27 Zone or Zones;

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

31 (M) An amount equal to those dividends included in
32 such total that were paid by a corporation that
33 conducts business operations in a federally designated
34 Foreign Trade Zone or Sub-Zone and that is designated a
35 High Impact Business located in Illinois; provided
36 that dividends eligible for the deduction provided in

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

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

9 (O) For taxable years 2001 and thereafter, for the
10 taxable year in which the bonus depreciation deduction
11 (30% of the adjusted basis of the qualified property)
12 is taken on the taxpayer's federal income tax return
13 under subsection (k) of Section 168 of the Internal
14 Revenue Code and for each applicable taxable year
15 thereafter, an amount equal to "x", where:

16 (1) "y" equals the amount of the depreciation
17 deduction taken for the taxable year on the
18 taxpayer's federal income tax return on property
19 for which the bonus depreciation deduction (30% of
20 the adjusted basis of the qualified property) was
21 taken in any year under subsection (k) of Section
22 168 of the Internal Revenue Code, but not including
23 the bonus depreciation deduction; and

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

26 The aggregate amount deducted under this
27 subparagraph in all taxable years for any one piece of
28 property may not exceed the amount of the bonus
29 depreciation deduction (30% of the adjusted basis of
30 the qualified property) taken on that property on the
31 taxpayer's federal income tax return under subsection
32 (k) of Section 168 of the Internal Revenue Code;

33 (P) If the taxpayer reports a capital gain or loss
34 on the taxpayer's federal income tax return for the
35 taxable year based on a sale or transfer of property
36 for which the taxpayer was required in any taxable year

1 to make an addition modification under subparagraph
2 (D-5), then an amount equal to that addition
3 modification.

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

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

23 (R) An amount equal to the interest income taken
24 into account for the taxable year (net of the
25 deductions allocable thereto) with respect to
26 transactions with a foreign person who would be a
27 member of the taxpayer's unitary business group but for
28 the fact that the foreign person's business activity
29 outside the United States is 80% or more of that
30 person's total business activity, but not to exceed the
31 addition modification required to be made for the same
32 taxable year under Section 203(d)(2)(D-7) for interest
33 paid, accrued, or incurred, directly or indirectly, to
34 the same foreign person; and

35 (S) An amount equal to the income from intangible
36 property taken into account for the taxable year (net

1 of the deductions allocable thereto) with respect to
2 transactions with a foreign person who would be a
3 member of the taxpayer's unitary business group but for
4 the fact that the foreign person's business activity
5 outside the United States is 80% or more of that
6 person's total business activity, but not to exceed the
7 addition modification required to be made for the same
8 taxable year under Section 203(d)(2)(D-8) for
9 intangible expenses and costs paid, accrued, or
10 incurred, directly or indirectly, to the same foreign
11 person.

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

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

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

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

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

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

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

28 (D) Real estate investment trusts. In the case of a
29 real estate investment trust subject to the tax imposed
30 by Section 857 of the Internal Revenue Code, real
31 estate investment trust taxable income;

32 (E) Consolidated corporations. In the case of a
33 corporation which is a member of an affiliated group of
34 corporations filing a consolidated income tax return
35 for the taxable year for federal income tax purposes,
36 taxable income determined as if such corporation had

1 filed a separate return for federal income tax purposes
2 for the taxable year and each preceding taxable year
3 for which it was a member of an affiliated group. For
4 purposes of this subparagraph, the taxpayer's separate
5 taxable income shall be determined as if the election
6 provided by Section 243(b) (2) of the Internal Revenue
7 Code had been in effect for all such years;

8 (F) Cooperatives. In the case of a cooperative
9 corporation or association, the taxable income of such
10 organization determined in accordance with the
11 provisions of Section 1381 through 1388 of the Internal
12 Revenue Code;

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

29 (H) Partnerships. In the case of a partnership,
30 taxable income determined in accordance with Section
31 703 of the Internal Revenue Code, except that taxable
32 income shall take into account those items which are
33 required by Section 703(a)(1) to be separately stated
34 but which would be taken into account by an individual
35 in calculating his taxable income.

36 (3) Recapture of business expenses on disposition of

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

17 (f) Valuation limitation amount.

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

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

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

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

35 (A) If the fair market value of property referred
36 to in paragraph (1) was readily ascertainable on August

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

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

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

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

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

1 August 1, 1969 or otherwise.

2 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
3 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
4 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
5 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

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