



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB4651**

Introduced 01/12/06, by Rep. Linda Chapa LaVia

**SYNOPSIS AS INTRODUCED:**

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Provides that a corporate income tax deduction for certain amounts paid or incurred by an interinsurer or reciprocal insurer to an attorney-in-fact: (i) applies on and after July 20, 1999; and (ii) is exempt from the Act's sunset provisions. Effective immediately.

LRB094 17119 BDD 52406 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning revenue.

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.

16 (b) Corporations.

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

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

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

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

31 (C) In the case of a regulated investment company,  
32 an amount equal to the excess of (i) the net long-term  
33 capital gain for the taxable year, over (ii) the amount  
34 of the capital gain dividends designated as such in  
35 accordance with Section 852(b)(3)(C) of the Internal



1 Revenue Code and any amount designated under Section  
2 852(b)(3)(D) of the Internal Revenue Code,  
3 attributable to the taxable year (this amendatory Act  
4 of 1995 (Public Act 89-89) is declarative of existing  
5 law and is not a new enactment);

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

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

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

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

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

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

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

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

15 (E-11) If the taxpayer reports a capital gain or  
16 loss on the taxpayer's federal income tax return for  
17 the taxable year based on a sale or transfer of  
18 property for which the taxpayer was required in any  
19 taxable year to make an addition modification under  
20 subparagraph (E-10), then an amount equal to the  
21 aggregate amount of the deductions taken in all taxable  
22 years under subparagraph (T) with respect to that  
23 property.

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

27 (E-12) For taxable years ending on or after  
28 December 31, 2004, an amount equal to the amount  
29 otherwise allowed as a deduction in computing base  
30 income for interest paid, accrued, or incurred,  
31 directly or indirectly, to a foreign person who would  
32 be a member of the same unitary business group but for  
33 the fact the foreign person's business activity  
34 outside the United States is 80% or more of the foreign  
35 person's total business activity. The addition  
36 modification required by this subparagraph shall be

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

11 This paragraph shall not apply to the following:

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

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

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

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

34 (iii) the taxpayer can establish, based on  
35 clear and convincing evidence, that the interest  
36 paid, accrued, or incurred relates to a contract or

1 agreement entered into at arm's-length rates and  
2 terms and the principal purpose for the payment is  
3 not federal or Illinois tax avoidance; or

4 (iv) an item of interest paid, accrued, or  
5 incurred, directly or indirectly, to a foreign  
6 person if the taxpayer establishes by clear and  
7 convincing evidence that the adjustments are  
8 unreasonable; or if the taxpayer and the Director  
9 agree in writing to the application or use of an  
10 alternative method of apportionment under Section  
11 304(f).

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

21 (E-13) For taxable years ending on or after  
22 December 31, 2004, an amount equal to the amount of  
23 intangible expenses and costs otherwise allowed as a  
24 deduction in computing base income, and that were paid,  
25 accrued, or incurred, directly or indirectly, to a  
26 foreign person who would be a member of the same  
27 unitary business group but for the fact that the  
28 foreign person's business activity outside the United  
29 States is 80% or more of that person's total business  
30 activity. The addition modification required by this  
31 subparagraph shall be reduced to the extent that  
32 dividends were included in base income of the unitary  
33 group for the same taxable year and received by the  
34 taxpayer or by a member of the taxpayer's unitary  
35 business group (including amounts included in gross  
36 income pursuant to Sections 951 through 964 of the

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

23 This paragraph shall not apply to the following:

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

31 (ii) any item of intangible expense or cost  
32 paid, accrued, or incurred, directly or  
33 indirectly, if the taxpayer can establish, based  
34 on a 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 intangible expense or cost to a person that is  
3 not a related member, and

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

11 (iii) any item of intangible expense or cost  
12 paid, accrued, or incurred, directly or  
13 indirectly, from a transaction with a foreign  
14 person if the taxpayer establishes by clear and  
15 convincing evidence, that the adjustments are  
16 unreasonable; or if the taxpayer and the Director  
17 agree in writing to the application or use of an  
18 alternative method of apportionment under Section  
19 304(f);

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

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

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

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

36 (H) In the case of a regulated investment company,

1 an amount equal to the amount of exempt interest  
2 dividends as defined in subsection (b) (5) of Section  
3 852 of the Internal Revenue Code, paid to shareholders  
4 for the taxable year;

5 (I) With the exception of any amounts subtracted  
6 under subparagraph (J), an amount equal to the sum of  
7 all amounts disallowed as deductions by (i) Sections  
8 171(a) (2), and 265(a)(2) and amounts disallowed as  
9 interest expense by Section 291(a)(3) of the Internal  
10 Revenue Code, as now or hereafter amended, and all  
11 amounts of expenses allocable to interest and  
12 disallowed as deductions by Section 265(a)(1) of the  
13 Internal Revenue Code, as now or hereafter amended; and  
14 (ii) for taxable years ending on or after August 13,  
15 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and  
16 832(b)(5)(B)(i) of the Internal Revenue Code; the  
17 provisions of this subparagraph are exempt from the  
18 provisions of Section 250;

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

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

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

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

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

27 (M-1) For any taxpayer that is a financial  
28 organization within the meaning of Section 304(c) of  
29 this Act, an amount included in such total as interest  
30 income from a loan or loans made by such taxpayer to a  
31 borrower, to the extent that such a loan is secured by  
32 property which is eligible for the High Impact Business  
33 Investment Credit. To determine the portion of a loan  
34 or loans that is secured by property eligible for a  
35 Section 201(h) investment credit to the borrower, the  
36 entire principal amount of the loan or loans between



1 the taxpayer and the borrower should be divided into  
2 the basis of the Section 201(h) investment credit  
3 property which secures the loan or loans, using for  
4 this purpose the original basis of such property on the  
5 date that it was placed in service in a federally  
6 designated Foreign Trade Zone or Sub-Zone located in  
7 Illinois. No taxpayer that is eligible for the  
8 deduction provided in subparagraph (M) of paragraph  
9 (2) of this subsection shall be eligible for the  
10 deduction provided under this subparagraph (M-1). The  
11 subtraction modification available to taxpayers in any  
12 year under this subsection shall be that portion of the  
13 total interest paid by the borrower with respect to  
14 such loan attributable to the eligible property as  
15 calculated under the previous sentence;

16 (N) Two times any contribution made during the  
17 taxable year to a designated zone organization to the  
18 extent that the contribution (i) qualifies as a  
19 charitable contribution under subsection (c) of  
20 Section 170 of the Internal Revenue Code and (ii) must,  
21 by its terms, be used for a project approved by the  
22 Department of Commerce and Economic Opportunity under  
23 Section 11 of the Illinois Enterprise Zone Act;

24 (O) An amount equal to: (i) 85% for taxable years  
25 ending on or before December 31, 1992, or, a percentage  
26 equal to the percentage allowable under Section  
27 243(a)(1) of the Internal Revenue Code of 1986 for  
28 taxable years ending after December 31, 1992, of the  
29 amount by which dividends included in taxable income  
30 and received from a corporation that is not created or  
31 organized under the laws of the United States or any  
32 state or political subdivision thereof, including, for  
33 taxable years ending on or after December 31, 1988,  
34 dividends received or deemed received or paid or deemed  
35 paid under Sections 951 through 964 of the Internal  
36 Revenue Code, exceed the amount of the modification

1 provided under subparagraph (G) of paragraph (2) of  
2 this subsection (b) which is related to such dividends;  
3 plus (ii) 100% of the amount by which dividends,  
4 included in taxable income and received, including,  
5 for taxable years ending on or after December 31, 1988,  
6 dividends received or deemed received or paid or deemed  
7 paid under Sections 951 through 964 of the Internal  
8 Revenue Code, from any such corporation specified in  
9 clause (i) that would but for the provisions of Section  
10 1504 (b) (3) of the Internal Revenue Code be treated as  
11 a member of the affiliated group which includes the  
12 dividend recipient, exceed the amount of the  
13 modification provided under subparagraph (G) of  
14 paragraph (2) of this subsection (b) which is related  
15 to such dividends;

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

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

24 (R) On and after July 20, 1999, in ~~in~~ the case of  
25 an attorney-in-fact with respect to whom an  
26 interinsurer or a reciprocal insurer has made the  
27 election under Section 835 of the Internal Revenue  
28 Code, 26 U.S.C. 835, an amount equal to the excess, if  
29 any, of the amounts paid or incurred by that  
30 interinsurer or reciprocal insurer in the taxable year  
31 to the attorney-in-fact over the deduction allowed to  
32 that interinsurer or reciprocal insurer with respect  
33 to the attorney-in-fact under Section 835(b) of the  
34 Internal Revenue Code for the taxable year; the  
35 provisions of this subparagraph are exempt from the  
36 provisions of Section 250;

1 (S) For taxable years ending on or after December  
2 31, 1997, in the case of a Subchapter S corporation, an  
3 amount equal to all amounts of income allocable to a  
4 shareholder subject to the Personal Property Tax  
5 Replacement Income Tax imposed by subsections (c) and  
6 (d) of Section 201 of this Act, including amounts  
7 allocable to organizations exempt from federal income  
8 tax by reason of Section 501(a) of the Internal Revenue  
9 Code. This subparagraph (S) is exempt from the  
10 provisions of Section 250;

11 (T) For taxable years 2001 and thereafter, for the  
12 taxable year in which the bonus depreciation deduction  
13 (30% of the adjusted basis of the qualified property)  
14 is taken on the taxpayer's federal income tax return  
15 under subsection (k) of Section 168 of the Internal  
16 Revenue Code and for each applicable taxable year  
17 thereafter, an amount equal to "x", where:

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

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

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

35 (U) If the taxpayer reports a capital gain or loss  
36 on the taxpayer's federal income tax return for the

1 taxable year based on a sale or transfer of property  
2 for which the taxpayer was required in any taxable year  
3 to make an addition modification under subparagraph  
4 (E-10), then an amount equal to that addition  
5 modification.

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

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

25 (W) An amount equal to the interest income taken  
26 into account for the taxable year (net of the  
27 deductions allocable thereto) with respect to  
28 transactions with a foreign person who would be a  
29 member of the taxpayer's unitary business group but for  
30 the fact that the foreign person's business activity  
31 outside the United States is 80% or more of that  
32 person's total business activity, but not to exceed the  
33 addition modification required to be made for the same  
34 taxable year under Section 203(b)(2)(E-12) for  
35 interest paid, accrued, or incurred, directly or  
36 indirectly, to the same foreign person; and

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

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

18 (c) Trusts and estates.

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

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

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

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

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

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

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

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

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

31 For taxable years in which there is a net operating  
32 loss carryback or carryforward from more than one other  
33 taxable year ending prior to December 31, 1986, the  
34 addition modification provided in this subparagraph  
35 (E) shall be the sum of the amounts computed  
36 independently under the preceding provisions of this

1 subparagraph (E) for each such taxable year;

2 (F) For taxable years ending on or after January 1,  
3 1989, an amount equal to the tax deducted pursuant to  
4 Section 164 of the Internal Revenue Code if the trust  
5 or estate is claiming the same tax for purposes of the  
6 Illinois foreign tax credit under Section 601 of this  
7 Act;

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

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

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

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

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

35 (G-12) For taxable years ending on or after  
36 December 31, 2004, an amount equal to the amount

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

19 This paragraph shall not apply to the following:

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

26 (ii) an item of interest paid, accrued, or  
27 incurred, directly or indirectly, to a foreign  
28 person if the taxpayer can establish, based on a  
29 preponderance of the evidence, both of the  
30 following:

31 (a) the foreign person, during the same  
32 taxable year, paid, accrued, or incurred, the  
33 interest to a person that is not a related  
34 member, and

35 (b) the transaction giving rise to the  
36 interest expense between the taxpayer and the



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

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

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

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

29 (G-13) For taxable years ending on or after  
30 December 31, 2004, an amount equal to the amount of  
31 intangible expenses and costs otherwise allowed as a  
32 deduction in computing base income, and that were paid,  
33 accrued, or incurred, directly or indirectly, to a  
34 foreign person who would be a member of the same  
35 unitary business group but for the fact that the  
36 foreign person's business activity outside the United

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

31 This paragraph shall not apply to the following:

32 (i) any item of intangible expenses or costs  
33 paid, accrued, or incurred, directly or  
34 indirectly, from a transaction with a foreign  
35 person who is subject in a foreign country or  
36 state, other than a state which requires mandatory

1 unitary reporting, to a tax on or measured by net  
2 income with respect to such item; or

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

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

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

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

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

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

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

14 (I) The valuation limitation amount;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
2 203(d)(2)(D-8), but not to exceed the amount of such  
3 addition modification;

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

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

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



1 (d) Partnerships.

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

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

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

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

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

18 (D) 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 (D-5) 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;

28 (D-6) 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 (D-5), then an amount equal to the  
34 aggregate amount of the deductions taken in all taxable  
35 years under subparagraph (D-5) 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           (D-7) For taxable years ending on or after December  
5 31, 2004, an amount equal to the amount otherwise  
6 allowed as a deduction in computing base income for  
7 interest paid, accrued, or incurred, directly or  
8 indirectly, to a foreign person who would be a member  
9 of the same unitary business group but for the fact the  
10 foreign person's business activity outside the United  
11 States is 80% or more of the foreign person's total  
12 business activity. The addition modification required  
13 by this subparagraph shall be reduced to the extent  
14 that dividends were included in base income of the  
15 unitary group for the same taxable year and received by  
16 the 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 interest was paid, accrued, or incurred.

23           This paragraph shall not apply to the following:

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

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

35           (a) the foreign person, during the same  
36 taxable year, paid, accrued, or incurred, the

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

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

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

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

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

33 (D-8) For taxable years ending on or after December  
34 31, 2004, an amount equal to the amount of intangible  
35 expenses and costs otherwise allowed as a deduction in  
36 computing base income, and that were paid, accrued, or

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

35 This paragraph shall not apply to the following:

- 36 (i) any item of intangible expenses or costs

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

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

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

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

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

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

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

5           and by deducting from the total so obtained the following  
6           amounts:

7                     (E) The valuation limitation amount;

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

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

27                    (I) An amount equal to all amounts of income  
28                    distributable to an entity subject to the Personal  
29                    Property Tax Replacement Income Tax imposed by  
30                    subsections (c) and (d) of Section 201 of this Act  
31                    including amounts distributable to organizations  
32                    exempt from federal income tax by reason of Section  
33                    501(a) of the Internal Revenue Code;

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

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

11 (K) An amount equal to those dividends included in  
12 such total which were paid by a corporation which  
13 conducts business operations in an Enterprise Zone or  
14 zones created under the Illinois Enterprise Zone Act,  
15 enacted by the 82nd General Assembly, and conducts  
16 substantially all of its operations in an Enterprise  
17 Zone or Zones;

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

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

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

35 (O) For taxable years 2001 and thereafter, for the  
36 taxable year in which the bonus depreciation deduction

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

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

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

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

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

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

33 (Q) The amount of (i) any interest income (net of  
34 the deductions allocable thereto) taken into account  
35 for the taxable year with respect to a transaction with  
36 a taxpayer that is required to make an addition



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

13 (R) An amount equal to the interest income taken  
14 into account for the taxable year (net of the  
15 deductions allocable thereto) with respect to  
16 transactions with a foreign person who would be a  
17 member of the taxpayer's unitary business group but for  
18 the fact that the foreign person's business activity  
19 outside the United States is 80% or more of that  
20 person's total business activity, but not to exceed the  
21 addition modification required to be made for the same  
22 taxable year under Section 203(d)(2)(D-7) for interest  
23 paid, accrued, or incurred, directly or indirectly, to  
24 the same foreign person; and

25 (S) An amount equal to the income from intangible  
26 property taken into account for the taxable year (net  
27 of the deductions allocable thereto) with respect to  
28 transactions with a foreign person who would be a  
29 member of the taxpayer's unitary business group but for  
30 the fact that the foreign person's business activity  
31 outside the United States is 80% or more of that  
32 person's total business activity, but not to exceed the  
33 addition modification required to be made for the same  
34 taxable year under Section 203(d)(2)(D-8) for  
35 intangible expenses and costs paid, accrued, or  
36 incurred, directly or indirectly, to the same foreign

1 person.

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

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

35 (2) Special rule. For purposes of paragraph (1) of this

1 subsection, the taxable income properly reportable for  
2 federal income tax purposes shall mean:

3 (A) Certain life insurance companies. In the case  
4 of a life insurance company subject to the tax imposed  
5 by Section 801 of the Internal Revenue Code, life  
6 insurance company taxable income, plus the amount of  
7 distribution from pre-1984 policyholder surplus  
8 accounts as calculated under Section 815a of the  
9 Internal Revenue Code;

10 (B) Certain other insurance companies. In the case  
11 of mutual insurance companies subject to the tax  
12 imposed by Section 831 of the Internal Revenue Code,  
13 insurance company taxable income;

14 (C) Regulated investment companies. In the case of  
15 a regulated investment company subject to the tax  
16 imposed by Section 852 of the Internal Revenue Code,  
17 investment company taxable income;

18 (D) Real estate investment trusts. In the case of a  
19 real estate investment trust subject to the tax imposed  
20 by Section 857 of the Internal Revenue Code, real  
21 estate investment trust taxable income;

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

34 (F) Cooperatives. In the case of a cooperative  
35 corporation or association, the taxable income of such  
36 organization determined in accordance with the

1 provisions of Section 1381 through 1388 of the Internal  
2 Revenue Code;

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

19 (H) Partnerships. In the case of a partnership,  
20 taxable income determined in accordance with Section  
21 703 of the Internal Revenue Code, except that taxable  
22 income shall take into account those items which are  
23 required by Section 703(a)(1) to be separately stated  
24 but which would be taken into account by an individual  
25 in calculating his taxable income.

26 (3) Recapture of business expenses on disposition of  
27 asset or business. Notwithstanding any other law to the  
28 contrary, if in prior years income from an asset or  
29 business has been classified as business income and in a  
30 later year is demonstrated to be non-business income, then  
31 all expenses, without limitation, deducted in such later  
32 year and in the 2 immediately preceding taxable years  
33 related to that asset or business that generated the  
34 non-business income shall be added back and recaptured as  
35 business income in the year of the disposition of the asset  
36 or business. Such amount shall be apportioned to Illinois

1 using the greater of the apportionment fraction computed  
2 for the business under Section 304 of this Act for the  
3 taxable year or the average of the apportionment fractions  
4 computed for the business under Section 304 of this Act for  
5 the taxable year and for the 2 immediately preceding  
6 taxable years.

7 (f) Valuation limitation amount.

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

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

16 (B) The lesser of (i) the sum of the pre-August 1,  
17 1969 appreciation amounts (to the extent consisting of  
18 capital gain) for all property in respect of which such  
19 gain was reported for federal income tax purposes for  
20 the taxable year, or (ii) the net capital gain for the  
21 taxable year, reduced in either case by any amount of  
22 such gain included in the amount determined under  
23 subsection (a) (2) (F) or (c) (2) (H).

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

25 (A) If the fair market value of property referred  
26 to in paragraph (1) was readily ascertainable on August  
27 1, 1969, the pre-August 1, 1969 appreciation amount for  
28 such property is the lesser of (i) the excess of such  
29 fair market value over the taxpayer's basis (for  
30 determining gain) for such property on that date  
31 (determined under the Internal Revenue Code as in  
32 effect on that date), or (ii) the total gain realized  
33 and reportable for federal income tax purposes in  
34 respect of the sale, exchange or other disposition of  
35 such property.

36 (B) If the fair market value of property referred

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

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

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

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

26 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,  
27 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;  
28 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.  
29 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

30 Section 99. Effective date. This Act takes effect upon  
31 becoming law.