



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB1653

Introduced 2/24/2005, by Sen. Dave Sullivan

SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.5
35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the State Treasurer Act. Removes the requirement that the State Treasurer adjust each account at least annually to ensure compliance with the requirements of the College Savings Pool. Provides that the Treasurer shall limit the contributions that may be made on behalf of a designated College Savings Pool beneficiary based on the limitations established by the Internal Revenue Service (now, based on an actuarial estimate of what is required to pay tuition, fees, and room and board for 5 undergraduate years at the highest cost eligible educational institution). Amends the Illinois Income Tax Act. Provides that for taxable years beginning on or after January 1, 2006, distributions from certain qualified tuition programs under the Internal Revenue Code that are administered by other states are exempt from the requirement that a distribution from an Internal Revenue Code qualified tuition program be included when determining adjusted gross income for purposes of determining base income. Makes other changes. Effective immediately.

LRB094 09118 BDD 39348 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning college savings.

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

4 Section 5. The State Treasurer Act is amended by changing
5 Section 16.5 as follows:

6 (15 ILCS 505/16.5)

7 Sec. 16.5. College Savings Pool. The State Treasurer may
8 establish and administer a College Savings Pool to supplement
9 and enhance the investment opportunities otherwise available
10 to persons seeking to finance the costs of higher education.
11 The State Treasurer, in administering the College Savings Pool,
12 may receive moneys paid into the pool by a participant and may
13 serve as the fiscal agent of that participant for the purpose
14 of holding and investing those moneys.

15 "Participant", as used in this Section, means any person
16 who makes investments in the pool. "Designated beneficiary", as
17 used in this Section, means any person on whose behalf an
18 account is established in the College Savings Pool by a
19 participant. Both in-state and out-of-state persons may be
20 participants and designated beneficiaries in the College
21 Savings Pool.

22 New accounts in the College Savings Pool may ~~shall~~ be
23 processed through participating financial institutions.

24 "Participating financial institution", as used in this
25 Section, means any financial institution insured by the Federal
26 Deposit Insurance Corporation and lawfully doing business in
27 the State of Illinois and any credit union approved by the
28 State Treasurer and lawfully doing business in the State of
29 Illinois that agrees to process new accounts in the College
30 Savings Pool. Participating financial institutions may charge
31 a processing fee to participants to open an account in the pool
32 that shall not exceed \$30 until the year 2001. Beginning in

1 2001 and every year thereafter, the maximum fee limit shall be
2 adjusted by the Treasurer based on the Consumer Price Index for
3 the North Central Region as published by the United States
4 Department of Labor, Bureau of Labor Statistics for the
5 immediately preceding calendar year. Every contribution
6 received by a financial institution for investment in the
7 College Savings Pool shall be transferred from the financial
8 institution to a location selected by the State Treasurer
9 within one business day following the day that the funds must
10 be made available in accordance with federal law. All
11 communications from the State Treasurer to participants shall
12 reference the participating financial institution at which the
13 account was processed.

14 The Treasurer may invest the moneys in the College Savings
15 Pool in the same manner, in the same types of investments, and
16 subject to the same limitations provided for the investment of
17 moneys by the Illinois State Board of Investment. To enhance
18 the safety and liquidity of the College Savings Pool, to ensure
19 the diversification of the investment portfolio of the pool,
20 and in an effort to keep investment dollars in the State of
21 Illinois, the State Treasurer may ~~shall~~ make a percentage of
22 each account available for investment in participating
23 financial institutions doing business in the State. The State
24 Treasurer may ~~shall~~ deposit with the participating financial
25 institution at which the account was processed the following
26 percentage of each account at a prevailing rate offered by the
27 institution, provided that the deposit is federally insured or
28 fully collateralized and the institution accepts the deposit:
29 10% of the total amount of each account for which the current
30 age of the beneficiary is less than 7 years of age, 20% of the
31 total amount of each account for which the beneficiary is at
32 least 7 years of age and less than 12 years of age, and 50% of
33 the total amount of each account for which the current age of
34 the beneficiary is at least 12 years of age. ~~The State~~
35 ~~Treasurer shall adjust each account at least annually to ensure~~
36 ~~compliance with this Section.~~ The Treasurer shall develop,

1 publish, and implement an investment policy covering the
2 investment of the moneys in the College Savings Pool. The
3 policy shall be published (i) at least once each year in at
4 least one newspaper of general circulation in both Springfield
5 and Chicago and (ii) each year as part of the audit of the
6 College Savings Pool by the Auditor General, which shall be
7 distributed to all participants. The Treasurer shall notify all
8 participants in writing, and the Treasurer shall publish in a
9 newspaper of general circulation in both Chicago and
10 Springfield, any changes to the previously published
11 investment policy at least 30 calendar days before implementing
12 the policy. Any investment policy adopted by the Treasurer
13 shall be reviewed and updated if necessary within 90 days
14 following the date that the State Treasurer takes office.

15 Participants shall be required to use moneys distributed
16 from the College Savings Pool for qualified expenses at
17 eligible educational institutions. "Qualified expenses", as
18 used in this Section, means the following: (i) tuition, fees,
19 and the costs of books, supplies, and equipment required for
20 enrollment or attendance at an eligible educational
21 institution and (ii) certain room and board expenses incurred
22 while attending an eligible educational institution at least
23 half-time. "Eligible educational institutions", as used in
24 this Section, means public and private colleges, junior
25 colleges, graduate schools, and certain vocational
26 institutions that are described in Section 481 of the Higher
27 Education Act of 1965 (20 U.S.C. 1088) and that are eligible to
28 participate in Department of Education student aid programs. A
29 student shall be considered to be enrolled at least half-time
30 if the student is enrolled for at least half the full-time
31 academic work load for the course of study the student is
32 pursuing as determined under the standards of the institution
33 at which the student is enrolled. Distributions made from the
34 pool for qualified expenses shall be made directly to the
35 eligible educational institution, directly to a vendor, or in
36 the form of a check payable to both the beneficiary and the

1 institution or vendor. Any moneys that are distributed in any
2 other manner or that are used for expenses other than qualified
3 expenses at an eligible educational institution shall be
4 subject to a penalty of 10% of the earnings unless the
5 beneficiary dies, becomes disabled, or receives a scholarship
6 that equals or exceeds the distribution. Penalties shall be
7 withheld at the time the distribution is made.

8 The Treasurer shall limit the contributions that may be
9 made on behalf of a designated beneficiary based on the
10 limitations established by the Internal Revenue Service. ~~an~~
11 ~~actuarial estimate of what is required to pay tuition, fees,~~
12 ~~and room and board for 5 undergraduate years at the highest~~
13 ~~cost eligible educational institution.~~ The contributions made
14 on behalf of a beneficiary who is also a beneficiary under the
15 Illinois Prepaid Tuition Program shall be further restricted to
16 ensure that the contributions in both programs combined do not
17 exceed the limit established for the College Savings Pool. The
18 Treasurer shall provide the Illinois Student Assistance
19 Commission each year at a time designated by the Commission, an
20 electronic report of all participant accounts in the
21 Treasurer's College Savings Pool, listing total contributions
22 and disbursements from each individual account during the
23 previous calendar year. As soon thereafter as is possible
24 following receipt of the Treasurer's report, the Illinois
25 Student Assistance Commission shall, in turn, provide the
26 Treasurer with an electronic report listing those College
27 Savings Pool participants who also participate in the State's
28 prepaid tuition program, administered by the Commission. The
29 Commission shall be responsible for filing any combined tax
30 reports regarding State qualified savings programs required by
31 the United States Internal Revenue Service. The Treasurer shall
32 work with the Illinois Student Assistance Commission to
33 coordinate the marketing of the College Savings Pool and the
34 Illinois Prepaid Tuition Program when considered beneficial by
35 the Treasurer and the Director of the Illinois Student
36 Assistance Commission. The Treasurer's office shall not

1 publicize or otherwise market the College Savings Pool or
2 accept any moneys into the College Savings Pool prior to March
3 1, 2000. The Treasurer shall provide a separate accounting for
4 each designated beneficiary to each participant, the Illinois
5 Student Assistance Commission, and the participating financial
6 institution at which the account was processed. No interest in
7 the program may be pledged as security for a loan.

8 The assets of the College Savings Pool and its income and
9 operation shall be exempt from all taxation by the State of
10 Illinois and any of its subdivisions. The accrued earnings on
11 investments in the Pool once disbursed on behalf of a
12 designated beneficiary shall be similarly exempt from all
13 taxation by the State of Illinois and its subdivisions, so long
14 as they are used for qualified expenses. Contributions to a
15 College Savings Pool account during the taxable year may be
16 deducted from adjusted gross income as provided in Section 203
17 of the Illinois Income Tax Act. The provisions of this
18 paragraph are exempt from Section 250 of the Illinois Income
19 Tax Act.

20 The Treasurer shall adopt rules he or she considers
21 necessary for the efficient administration of the College
22 Savings Pool. The rules shall provide whatever additional
23 parameters and restrictions are necessary to ensure that the
24 College Savings Pool meets all of the requirements for a
25 qualified state tuition program under Section 529 of the
26 Internal Revenue Code (26 U.S.C. 529). The rules shall provide
27 for the administration expenses of the pool to be paid from its
28 earnings and for the investment earnings in excess of the
29 expenses and all moneys collected as penalties to be credited
30 or paid monthly to the several participants in the pool in a
31 manner which equitably reflects the differing amounts of their
32 respective investments in the pool and the differing periods of
33 time for which those amounts were in the custody of the pool.
34 Also, the rules shall require the maintenance of records that
35 enable the Treasurer's office to produce a report for each
36 account in the pool at least annually that documents the

1 account balance and investment earnings. Notice of any proposed
2 amendments to the rules and regulations shall be provided to
3 all participants prior to adoption. Amendments to rules and
4 regulations shall apply only to contributions made after the
5 adoption of the amendment.

6 Upon creating the College Savings Pool, the State Treasurer
7 shall give bond with 2 or more sufficient sureties, payable to
8 and for the benefit of the participants in the College Savings
9 Pool, in the penal sum of \$1,000,000, conditioned upon the
10 faithful discharge of his or her duties in relation to the
11 College Savings Pool.

12 (Source: P.A. 92-16, eff. 6-28-01; 92-439, eff. 8-17-01;
13 92-626, eff. 7-11-02; 93-812, eff. 1-1-05.)

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

16 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

17 Sec. 203. Base income defined.

18 (a) Individuals.

19 (1) In general. In the case of an individual, base
20 income means an amount equal to the taxpayer's adjusted
21 gross income for the taxable year as modified by paragraph
22 (2).

23 (2) Modifications. The adjusted gross income referred
24 to in paragraph (1) shall be modified by adding thereto the
25 sum of the 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 adjusted gross income, except
30 stock dividends of qualified public utilities
31 described in Section 305(e) of the Internal Revenue
32 Code;

33 (B) An amount equal to the amount of tax imposed by
34 this Act to the extent deducted from gross income in

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

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

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

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

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

32 (D-15) For taxable years 2001 and thereafter, an
33 amount equal to the bonus depreciation deduction (30%
34 of the adjusted basis of the qualified property) taken
35 on the taxpayer's federal income tax return for the
36 taxable year under subsection (k) of Section 168 of the

1 Internal Revenue Code;

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

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

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

33 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

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

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

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

9 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

15 (D-20) For taxable years beginning on or after
16 January 1, 2002 and ending on or before December 31,
17 2005, in the case of a distribution from a qualified
18 tuition program under Section 529 of the Internal
19 Revenue Code, other than (i) a distribution from a
20 College Savings Pool created under Section 16.5 of the
21 State Treasurer Act or (ii) a distribution from the
22 Illinois Prepaid Tuition Trust Fund, an amount equal to
23 the amount excluded from gross income under Section
24 529(c) (3) (B). For taxable years beginning on or after
25 January 1, 2006, in the case of a distribution from a
26 qualified tuition program under Section 529 of the
27 Internal Revenue Code, other than (i) a distribution
28 from a College Savings Pool created under Section 16.5
29 of the State Treasurer Act, (ii) a distribution from
30 the Illinois Prepaid Tuition Trust Fund, or (iii) a
31 distribution from a qualified tuition program under
32 Section 529 of the Internal Revenue Code that is
33 administered by a state that (I) does not permit a
34 sales load exceeding the greater of 3.5% or the
35 greatest sales load permitted by a qualified tuition
36 program administered by the State and (II) has

1 disclosure practices that are no less extensive than
2 those established by the State for the Illinois College
3 Savings Pool, an amount equal to the amount excluded
4 from gross income under Section 529(c) (3) (B);

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

7 (E) For taxable years ending before December 31,
8 2001, any amount included in such total in respect of
9 any compensation (including but not limited to any
10 compensation paid or accrued to a serviceman while a
11 prisoner of war or missing in action) paid to a
12 resident by reason of being on active duty in the Armed
13 Forces of the United States and in respect of any
14 compensation paid or accrued to a resident who as a
15 governmental employee was a prisoner of war or missing
16 in action, and in respect of any compensation paid to a
17 resident in 1971 or thereafter for annual training
18 performed pursuant to Sections 502 and 503, Title 32,
19 United States Code as a member of the Illinois National
20 Guard. For taxable years ending on or after December
21 31, 2001, any amount included in such total in respect
22 of any compensation (including but not limited to any
23 compensation paid or accrued to a serviceman while a
24 prisoner of war or missing in action) paid to a
25 resident by reason of being a member of any component
26 of the Armed Forces of the United States and in respect
27 of any compensation paid or accrued to a resident who
28 as a governmental employee was a prisoner of war or
29 missing in action, and in respect of any compensation
30 paid to a resident in 2001 or thereafter by reason of
31 being a member of the Illinois National Guard. The
32 provisions of this amendatory Act of the 92nd General
33 Assembly are exempt from the provisions of Section 250;

34 (F) An amount equal to all amounts included in such
35 total pursuant to the provisions of Sections 402(a),
36 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the

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

9 (G) The valuation limitation amount;

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

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

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

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

33 (L) For taxable years ending after December 31,
34 1983, an amount equal to all social security benefits
35 and railroad retirement benefits included in such
36 total pursuant to Sections 72(r) and 86 of the Internal

1 Revenue Code;

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

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

24 (O) An amount equal to any contribution made to a
25 job training project established pursuant to the Tax
26 Increment Allocation Redevelopment Act;

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

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

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

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

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

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

24 (V) Beginning with tax years ending on or after
25 December 31, 1995 and ending with tax years ending on
26 or before December 31, 2004, an amount equal to the
27 amount paid by a taxpayer who is a self-employed
28 taxpayer, a partner of a partnership, or a shareholder
29 in a Subchapter S corporation for health insurance or
30 long-term care insurance for that taxpayer or that
31 taxpayer's spouse or dependents, to the extent that the
32 amount paid for that health insurance or long-term care
33 insurance may be deducted under Section 213 of the
34 Internal Revenue Code of 1986, has not been deducted on
35 the federal income tax return of the taxpayer, and does
36 not exceed the taxable income attributable to that

1 taxpayer's income, self-employment income, or
2 Subchapter S corporation income; except that no
3 deduction shall be allowed under this item (V) if the
4 taxpayer is eligible to participate in any health
5 insurance or long-term care insurance plan of an
6 employer of the taxpayer or the taxpayer's spouse. The
7 amount of the health insurance and long-term care
8 insurance subtracted under this item (V) shall be
9 determined by multiplying total health insurance and
10 long-term care insurance premiums paid by the taxpayer
11 times a number that represents the fractional
12 percentage of eligible medical expenses under Section
13 213 of the Internal Revenue Code of 1986 not actually
14 deducted on the taxpayer's federal income tax return;

15 (W) For taxable years beginning on or after January
16 1, 1998, all amounts included in the taxpayer's federal
17 gross income in the taxable year from amounts converted
18 from a regular IRA to a Roth IRA. This paragraph is
19 exempt from the provisions of Section 250;

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

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

17 (Y) For taxable years beginning on or after January
18 1, 2002 and ending on or before December 31, 2004,
19 moneys contributed in the taxable year to a College
20 Savings Pool account under Section 16.5 of the State
21 Treasurer Act, except that amounts excluded from gross
22 income under Section 529(c)(3)(C)(i) of the Internal
23 Revenue Code shall not be considered moneys
24 contributed under this subparagraph (Y). For taxable
25 years beginning on or after January 1, 2005, a maximum
26 of \$10,000 contributed in the taxable year to (i) a
27 College Savings Pool account under Section 16.5 of the
28 State Treasurer Act or (ii) the Illinois Prepaid
29 Tuition Trust Fund, except that amounts excluded from
30 gross income under Section 529(c)(3)(C)(i) of the
31 Internal Revenue Code shall not be considered moneys
32 contributed under this subparagraph (Y). This
33 subparagraph (Y) is exempt from the provisions of
34 Section 250;

35 (Z) 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 (AA) 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-15), 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 (BB) Any amount included in adjusted gross income,
34 other than salary, received by a driver in a
35 ridesharing arrangement using a motor vehicle;

36 (CC) The amount of (i) any interest income (net of

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

16 (DD) An amount equal to the interest income taken
17 into account for the taxable year (net of the
18 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(a)(2)(D-17) for
26 interest paid, accrued, or incurred, directly or
27 indirectly, to the same foreign person; and

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

1 taxable year under Section 203(a)(2)(D-18) for
2 intangible expenses and costs paid, accrued, or
3 incurred, directly or indirectly, to the same foreign
4 person.

5 (b) Corporations.

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

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

12 (A) An amount equal to all amounts paid or accrued
13 to the taxpayer as interest and all distributions
14 received from regulated investment companies during
15 the taxable year to the extent excluded from gross
16 income in the computation of taxable income;

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

20 (C) In the case of a regulated investment company,
21 an amount equal to the excess of (i) the net long-term
22 capital gain for the taxable year, over (ii) the amount
23 of the capital gain dividends designated as such in
24 accordance with Section 852(b)(3)(C) of the Internal
25 Revenue Code and any amount designated under Section
26 852(b)(3)(D) of the Internal Revenue Code,
27 attributable to the taxable year (this amendatory Act
28 of 1995 (Public Act 89-89) is declarative of existing
29 law and is not a new enactment);

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

34 (E) For taxable years in which a net operating loss
35 carryback or carryforward from a taxable year ending

1 prior to December 31, 1986 is an element of taxable
2 income under paragraph (1) of subsection (e) or
3 subparagraph (E) of paragraph (2) of subsection (e),
4 the amount by which addition modifications other than
5 those provided by this subparagraph (E) exceeded
6 subtraction modifications in such earlier taxable
7 year, with the following limitations applied in the
8 order that they are listed:

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

17 (ii) the addition modification relating to the
18 net operating loss carried back or forward to the
19 taxable year from any taxable year ending prior to
20 December 31, 1986 shall not exceed the amount of
21 such carryback or carryforward;

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

29 (E-5) For taxable years ending after December 31,
30 1997, an amount equal to any eligible remediation costs
31 that the corporation deducted in computing adjusted
32 gross income and for which the corporation claims a
33 credit under subsection (l) of Section 201;

34 (E-10) For taxable years 2001 and thereafter, an
35 amount equal to the bonus depreciation deduction (30%
36 of the adjusted basis of the qualified property) taken

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

4 (E-11) If the taxpayer reports a capital gain or
5 loss on the taxpayer's federal income tax return for
6 the taxable year based on a sale or transfer of
7 property for which the taxpayer was required in any
8 taxable year to make an addition modification under
9 subparagraph (E-10), then an amount equal to the
10 aggregate amount of the deductions taken in all taxable
11 years under subparagraph (T) with respect to that
12 property.

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

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

36 This paragraph shall not apply to the following:

1 (i) an item of interest paid, accrued, or
2 incurred, directly or indirectly, to 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 interest; or

7 (ii) an item of interest paid, accrued, or
8 incurred, directly or indirectly, to a foreign
9 person if the taxpayer can establish, based on a
10 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 interest to a person that is not a related
15 member, and

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

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

29 (iv) an item of interest paid, accrued, or
30 incurred, directly or indirectly, to a foreign
31 person if the taxpayer establishes by clear and
32 convincing evidence that the adjustments are
33 unreasonable; or if the taxpayer and the Director
34 agree in writing to the application or use of an
35 alternative method of apportionment under Section
36 304(f).

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

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

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

12 This paragraph shall not apply to the following:

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

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

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

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

36 (iii) any item of intangible expense or cost

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

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

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

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

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

25 (H) In the case of a regulated investment company,
26 an amount equal to the amount of exempt interest
27 dividends as defined in subsection (b) (5) of Section
28 852 of the Internal Revenue Code, paid to shareholders
29 for the taxable year;

30 (I) With the exception of any amounts subtracted
31 under subparagraph (J), an amount equal to the sum of
32 all amounts disallowed as deductions by (i) Sections
33 171(a) (2), and 265(a) (2) and amounts disallowed as
34 interest expense by Section 291(a) (3) of the Internal
35 Revenue Code, as now or hereafter amended, and all
36 amounts of expenses allocable to interest and

1 disallowed as deductions by Section 265(a)(1) of the
2 Internal Revenue Code, as now or hereafter amended; and
3 (ii) for taxable years ending on or after August 13,
4 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
5 832(b)(5)(B)(i) of the Internal Revenue Code; the
6 provisions of this subparagraph are exempt from the
7 provisions of Section 250;

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

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

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

32 (M) For any taxpayer that is a financial
33 organization within the meaning of Section 304(c) of
34 this Act, an amount included in such total as interest
35 income from a loan or loans made by such taxpayer to a
36 borrower, to the extent that such a loan is secured by

1 property which is eligible for the Enterprise Zone
2 Investment Credit. To determine the portion of a loan
3 or loans that is secured by property eligible for a
4 Section 201(f) investment credit to the borrower, the
5 entire principal amount of the loan or loans between
6 the taxpayer and the borrower should be divided into
7 the basis of the Section 201(f) investment credit
8 property which secures the loan or loans, using for
9 this purpose the original basis of such property on the
10 date that it was placed in service in the Enterprise
11 Zone. The subtraction modification available to
12 taxpayer in any year under this subsection shall be
13 that portion of the total interest paid by the borrower
14 with respect to such loan attributable to the eligible
15 property as calculated under the previous sentence;

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

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

5 (N) Two times any contribution made during the
6 taxable year to a designated zone organization to the
7 extent that the contribution (i) qualifies as a
8 charitable contribution under subsection (c) of
9 Section 170 of the Internal Revenue Code and (ii) must,
10 by its terms, be used for a project approved by the
11 Department of Commerce and Economic Opportunity under
12 Section 11 of the Illinois Enterprise Zone Act;

13 (O) An amount equal to: (i) 85% for taxable years
14 ending on or before December 31, 1992, or, a percentage
15 equal to the percentage allowable under Section
16 243(a)(1) of the Internal Revenue Code of 1986 for
17 taxable years ending after December 31, 1992, of the
18 amount by which dividends included in taxable income
19 and received from a corporation that is not created or
20 organized under the laws of the United States or any
21 state or political subdivision thereof, including, for
22 taxable years ending on or after December 31, 1988,
23 dividends received or deemed received or paid or deemed
24 paid under Sections 951 through 964 of the Internal
25 Revenue Code, exceed the amount of the modification
26 provided under subparagraph (G) of paragraph (2) of
27 this subsection (b) which is related to such dividends;
28 plus (ii) 100% of the amount by which dividends,
29 included in taxable income and received, including,
30 for taxable years ending on or after December 31, 1988,
31 dividends received or deemed received or paid or deemed
32 paid under Sections 951 through 964 of the Internal
33 Revenue Code, from any such corporation specified in
34 clause (i) that would but for the provisions of Section
35 1504 (b) (3) of the Internal Revenue Code be treated as
36 a member of the affiliated group which includes the

1 dividend recipient, exceed the amount of the
2 modification provided under subparagraph (G) of
3 paragraph (2) of this subsection (b) which is related
4 to such dividends;

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

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

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

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

33 (T) For taxable years 2001 and thereafter, for the
34 taxable year in which the bonus depreciation deduction
35 (30% of the adjusted basis of the qualified property)
36 is taken on the taxpayer's federal income tax return

1 under subsection (k) of Section 168 of the Internal
2 Revenue Code and for each applicable taxable year
3 thereafter, an amount equal to "x", where:

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

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

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

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

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

31 (V) The amount of: (i) any interest income (net of
32 the deductions allocable thereto) taken into account
33 for the taxable year with respect to a transaction with
34 a taxpayer that is required to make an addition
35 modification with respect to such transaction under
36 Section 203(a)(2)(D-17), 203(b)(2)(E-12),

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

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

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

36 (3) Special rule. For purposes of paragraph (2) (A),

1 "gross income" in the case of a life insurance company, for
2 tax years ending on and after December 31, 1994, shall mean
3 the gross investment income for the taxable year.

4 (c) Trusts and estates.

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

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

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

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

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

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

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

1 subtraction modifications in such taxable year, with
2 the following limitations applied in the order that
3 they are listed:

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

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

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

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

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

34 (G-5) For taxable years ending after December 31,
35 1997, an amount equal to any eligible remediation costs
36 that the trust or estate deducted in computing adjusted

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

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

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

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

21 (G-12) For taxable years ending on or after
22 December 31, 2004, an amount equal to the amount
23 otherwise allowed as a deduction in computing base
24 income for interest paid, accrued, or incurred,
25 directly or indirectly, to a foreign person who would
26 be a member of the same unitary business group but for
27 the fact that the foreign person's business activity
28 outside the United States is 80% or more of the foreign
29 person's total business activity. The addition
30 modification required by this subparagraph shall be
31 reduced to the extent that dividends were included in
32 base income of the unitary group for the same taxable
33 year and received by the taxpayer or by a member of the
34 taxpayer's unitary business group (including amounts
35 included in gross income pursuant to Sections 951
36 through 964 of the Internal Revenue Code and amounts

1 included in gross income under Section 78 of the
2 Internal Revenue Code) with respect to the stock of the
3 same person to whom the interest was paid, accrued, or
4 incurred.

5 This paragraph shall not apply to the following:

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

12 (ii) an item of interest paid, accrued, or
13 incurred, directly or indirectly, to a foreign
14 person if the taxpayer can establish, based on a
15 preponderance of the evidence, both of the
16 following:

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

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

28 (iii) the taxpayer can establish, based on
29 clear and convincing evidence, that the interest
30 paid, accrued, or incurred relates to a contract or
31 agreement entered into at arm's-length rates and
32 terms and the principal purpose for the payment is
33 not federal or Illinois tax avoidance; or

34 (iv) an item of interest paid, accrued, or
35 incurred, directly or indirectly, to a foreign
36 person if the taxpayer establishes by clear and

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

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

15 (G-13) For taxable years ending on or after
16 December 31, 2004, an amount equal to the amount of
17 intangible expenses and costs otherwise allowed as a
18 deduction in computing base income, and that were paid,
19 accrued, or incurred, directly or indirectly, to a
20 foreign person who would be a member of the same
21 unitary business group but for the fact that the
22 foreign person's business activity outside the United
23 States is 80% or more of that person's total business
24 activity. The addition modification required by this
25 subparagraph shall be reduced to the extent that
26 dividends were included in base income of the unitary
27 group for the same taxable year and received by the
28 taxpayer or by a member of the taxpayer's unitary
29 business group (including amounts included in gross
30 income pursuant to Sections 951 through 964 of the
31 Internal Revenue Code and amounts included in gross
32 income under Section 78 of the Internal Revenue Code)
33 with respect to the stock of the same person to whom
34 the intangible expenses and costs were directly or
35 indirectly paid, incurred, or accrued. The preceding
36 sentence shall not apply to the extent that the same

1 dividends caused a reduction to the addition
2 modification required under Section 203(c)(2)(G-12) of
3 this Act. As used in this subparagraph, the term
4 "intangible expenses and costs" includes: (1)
5 expenses, losses, and costs for or related to the
6 direct or indirect acquisition, use, maintenance or
7 management, ownership, sale, exchange, or any other
8 disposition of intangible property; (2) losses
9 incurred, directly or indirectly, from factoring
10 transactions or discounting transactions; (3) royalty,
11 patent, technical, and copyright fees; (4) licensing
12 fees; and (5) other similar expenses and costs. For
13 purposes of this subparagraph, "intangible property"
14 includes patents, patent applications, trade names,
15 trademarks, service marks, copyrights, mask works,
16 trade secrets, and similar types of intangible assets.

17 This paragraph shall not apply to the following:

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

25 (ii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or
27 indirectly, if the taxpayer can establish, based
28 on a preponderance of the evidence, both of the
29 following:

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

34 (b) the transaction giving rise to the
35 intangible expense or cost between the
36 taxpayer and the foreign person did not have as

1 a principal purpose the avoidance of Illinois
2 income tax, and is paid pursuant to a contract
3 or agreement that reflects arm's-length terms;
4 or

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

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

23 and by deducting from the total so obtained the sum of the
24 following amounts:

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

36 (I) The valuation limitation amount;

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

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

15 (L) With the exception of any amounts subtracted
16 under subparagraph (K), an amount equal to the sum of
17 all amounts disallowed as deductions by (i) Sections
18 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
19 as now or hereafter amended, and all amounts of
20 expenses allocable to interest and disallowed as
21 deductions by Section 265(1) of the Internal Revenue
22 Code of 1954, as now or hereafter amended; and (ii) for
23 taxable years ending on or after August 13, 1999,
24 Sections 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of
25 the Internal Revenue Code; the provisions of this
26 subparagraph are exempt from the provisions of Section
27 250;

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

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

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

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

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

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

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

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

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

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

36 (S) If the taxpayer reports a capital gain or loss

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

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

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

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

1 indirectly, to the same foreign person; and

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

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

22 (d) Partnerships.

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

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

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

33 (B) An amount equal to the amount of tax imposed by
34 this Act to the extent deducted from gross income for
35 the taxable year;

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

4 (D) An amount equal to the amount of the capital
5 gain deduction allowable under the Internal Revenue
6 Code, to the extent deducted from gross income in the
7 computation of taxable income;

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

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

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

26 (D-7) For taxable years ending on or after December
27 31, 2004, an amount equal to the amount otherwise
28 allowed as a deduction in computing base income for
29 interest paid, accrued, or incurred, directly or
30 indirectly, to a foreign person who would be a member
31 of the same unitary business group but for the fact the
32 foreign person's business activity outside the United
33 States is 80% or more of the foreign person's total
34 business activity. The addition modification required
35 by this subparagraph shall be reduced to the extent
36 that dividends were included in base income of the

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

9 This paragraph shall not apply to the following:

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

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

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

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

32 (iii) the taxpayer can establish, based on
33 clear and convincing evidence, that the interest
34 paid, accrued, or incurred relates to a contract or
35 agreement entered into at arm's-length rates and
36 terms and the principal purpose for the payment is

1 not federal or Illinois tax avoidance; or

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

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

19 (D-8) For taxable years ending on or after December
20 31, 2004, an amount equal to the amount of intangible
21 expenses and costs otherwise allowed as a deduction in
22 computing base income, and that were paid, accrued, or
23 incurred, directly or indirectly, to a foreign person
24 who would be a member of the same unitary business
25 group but for the fact that the foreign person's
26 business activity outside the United States is 80% or
27 more of that person's total business activity. The
28 addition modification required by this subparagraph
29 shall be reduced to the extent that dividends were
30 included in base income of the unitary group for the
31 same taxable year and received by the taxpayer or by a
32 member of the taxpayer's unitary business group
33 (including amounts included in gross income pursuant
34 to Sections 951 through 964 of the Internal Revenue
35 Code and amounts included in gross income under Section
36 78 of the Internal Revenue Code) with respect to the

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

21 This paragraph shall not apply to the following:

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

29 (ii) any item of intangible expense or cost
30 paid, accrued, or incurred, directly or
31 indirectly, if the taxpayer can establish, based
32 on a preponderance of the evidence, both of the
33 following:

34 (a) the foreign person during the same
35 taxable year paid, accrued, or incurred, the
36 intangible expense or cost to a person that is

1 not a related member, and

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

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

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

27 and by deducting from the total so obtained the following
28 amounts:

29 (E) The valuation limitation amount;

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

33 (G) An amount equal to all amounts included in
34 taxable income as modified by subparagraphs (A), (B),
35 (C) and (D) which are exempt from taxation by this
36 State either by reason of its statutes or Constitution

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

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

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

20 (J) With the exception of any amounts subtracted
21 under subparagraph (G), an amount equal to the sum of
22 all amounts disallowed as deductions by (i) Sections
23 171(a) (2), and 265(2) of the Internal Revenue Code of
24 1954, as now or hereafter amended, and all amounts of
25 expenses allocable to interest and disallowed as
26 deductions by Section 265(1) of the Internal Revenue
27 Code, as now or hereafter amended; and (ii) for taxable
28 years ending on or after August 13, 1999, Sections
29 171(a) (2), 265, 280C, and 832(b) (5) (B) (i) of the
30 Internal Revenue Code; the provisions of this
31 subparagraph are exempt from the provisions of Section
32 250;

33 (K) An amount equal to those dividends included in
34 such total which were paid by a corporation which
35 conducts business operations in an Enterprise Zone or
36 zones created under the Illinois Enterprise Zone Act,

1 enacted by the 82nd General Assembly, and conducts
2 substantially all of its operations in an Enterprise
3 Zone or Zones;

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

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

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

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

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

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

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

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

9 (P) If the taxpayer reports a capital gain or loss
10 on the taxpayer's federal income tax return for the
11 taxable year based on a sale or transfer of property
12 for which the taxpayer was required in any taxable year
13 to make an addition modification under subparagraph
14 (D-5), then an amount equal to that addition
15 modification.

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

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

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

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

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

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

25 (1) In general. Subject to the provisions of paragraph
26 (2) and subsection (b) (3), for purposes of this Section
27 and Section 803(e), a taxpayer's gross income, adjusted
28 gross income, or taxable income for the taxable year shall
29 mean the amount of gross income, adjusted gross income or
30 taxable income properly reportable for federal income tax
31 purposes for the taxable year under the provisions of the
32 Internal Revenue Code. Taxable income may be less than
33 zero. However, for taxable years ending on or after
34 December 31, 1986, net operating loss carryforwards from
35 taxable years ending prior to December 31, 1986, may not

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

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

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

32 (B) Certain other insurance companies. In the case
33 of mutual insurance companies subject to the tax
34 imposed by Section 831 of the Internal Revenue Code,
35 insurance company taxable income;

36 (C) Regulated investment companies. In the case of

1 a regulated investment company subject to the tax
2 imposed by Section 852 of the Internal Revenue Code,
3 investment company taxable income;

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

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

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

25 (G) Subchapter S corporations. In the case of: (i)
26 a Subchapter S corporation for which there is in effect
27 an election for the taxable year under Section 1362 of
28 the Internal Revenue Code, the taxable income of such
29 corporation determined in accordance with Section
30 1363(b) of the Internal Revenue Code, except that
31 taxable income shall take into account those items
32 which are required by Section 1363(b)(1) of the
33 Internal Revenue Code to be separately stated; and (ii)
34 a Subchapter S corporation for which there is in effect
35 a federal election to opt out of the provisions of the
36 Subchapter S Revision Act of 1982 and have applied

1 instead the prior federal Subchapter S rules as in
2 effect on July 1, 1982, the taxable income of such
3 corporation determined in accordance with the federal
4 Subchapter S rules as in effect on July 1, 1982; and

5 (H) Partnerships. In the case of a partnership,
6 taxable income determined in accordance with Section
7 703 of the Internal Revenue Code, except that taxable
8 income shall take into account those items which are
9 required by Section 703(a)(1) to be separately stated
10 but which would be taken into account by an individual
11 in calculating his taxable income.

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

29 (f) Valuation limitation amount.

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

33 (A) The sum of the pre-August 1, 1969 appreciation
34 amounts (to the extent consisting of gain reportable
35 under the provisions of Section 1245 or 1250 of the
36 Internal Revenue Code) for all property in respect of

1 which such gain was reported for the taxable year; plus

2 (B) The lesser of (i) the sum of the pre-August 1,
3 1969 appreciation amounts (to the extent consisting of
4 capital gain) for all property in respect of which such
5 gain was reported for federal income tax purposes for
6 the taxable year, or (ii) the net capital gain for the
7 taxable year, reduced in either case by any amount of
8 such gain included in the amount determined under
9 subsection (a) (2) (F) or (c) (2) (H).

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

11 (A) If the fair market value of property referred
12 to in paragraph (1) was readily ascertainable on August
13 1, 1969, the pre-August 1, 1969 appreciation amount for
14 such property is the lesser of (i) the excess of such
15 fair market value over the taxpayer's basis (for
16 determining gain) for such property on that date
17 (determined under the Internal Revenue Code as in
18 effect on that date), or (ii) the total gain realized
19 and reportable for federal income tax purposes in
20 respect of the sale, exchange or other disposition of
21 such property.

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

33 (C) The Department shall prescribe such
34 regulations as may be necessary to carry out the
35 purposes of this paragraph.

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

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

13 (Source: P.A. 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439,
14 eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02;
15 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; 93-812, eff.
16 7-26-04; 93-840, eff. 7-30-04; revised 10-12-04.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.