



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3636

Introduced 2/24/2009, by Rep. Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-200	was 20 ILCS 2505/39c-1a
35 ILCS 5/203	from Ch. 120, par. 2-203
35 ILCS 5/502	from Ch. 120, par. 5-502
35 ILCS 5/911.1	from Ch. 120, par. 9-911.1
35 ILCS 5/911.2	
35 ILCS 105/10	from Ch. 120, par. 439.10
415 ILCS 5/55.8	from Ch. 111 1/2, par. 1055.8
415 ILCS 5/55.10	from Ch. 111 1/2, par. 1055.10

Amends the Department of Revenue Law of the Civil Administration Code of Illinois to authorize the Department of Revenue to adopt rules requiring the electronic filing of certain tax returns. Amends the Illinois Income Tax Act. Authorizes spouses who file federal joint returns to file separate State returns. Amends various provisions concerning the joint and several liability of spouses who file joint returns. Provides that certain publicly traded partnerships may not claim a deduction for income distributable to an entity subject to the Personal Property Tax Replacement Income Tax. Amends the Use Tax Act. Requires purchasers to file a return and pay use tax on cigarettes within 30 days after acquiring the cigarettes (now, the tax must be paid by the last day of the month following the calendar month in which the cigarettes were purchased). Amends the Environmental Protection Act. Provides that, beginning on January 31, 2010, quarterly tax returns submitted by tire retailers are due by April 20, July 20, October 20, and January 20 of each year (now, returns are due by April 30, July 31, October 31, and January 31). Effective immediately.

LRB096 11653 HLH 22228 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 Section 5. The Department of Revenue Law of the Civil
5 Administrative Code of Illinois is amended by changing Section
6 2505-200 as follows:

7 (20 ILCS 2505/2505-200) (was 20 ILCS 2505/39c-1a)
8 Sec. 2505-200. Electronic filing rules.

9 (a) The Department may adopt rules to authorize the
10 electronic filing of any return or document required to be
11 filed under any Act administered by the Department.

12 (b) The Department may adopt rules to require the
13 electronic filing of the income and replacement tax return
14 required to be filed under the Illinois Income Tax Act for a
15 taxable year by any taxpayer (other than an individual) who is
16 required to file its federal income tax return electronically
17 for the taxable year.

18 (c) In the case of an electronically filed return or other
19 document required to be filed with the Department or maintained
20 by any taxpayer, these rules may set forth standards that
21 provide for acceptance of a signature in a form other than in
22 the proper handwriting of the person.

23 (Source: P.A. 91-239, eff. 1-1-00.)

1 Section 10. The Illinois Income Tax Act is amended by
2 changing Sections 203, 502, 911.1, and 911.2 as follows:

3 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

4 Sec. 203. Base income defined.

5 (a) Individuals.

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

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

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

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

24 (C) An amount equal to the amount received during

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

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

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

24 (D-10) For taxable years ending after December 31,
25 1997, an amount equal to any eligible remediation costs
26 that the individual deducted in computing adjusted

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

3 (D-15) For taxable years 2001 and thereafter, an
4 amount equal to the bonus depreciation deduction taken
5 on the taxpayer's federal income tax return for the
6 taxable year under subsection (k) of Section 168 of the
7 Internal Revenue Code;

8 (D-16) If the taxpayer sells, transfers, abandons,
9 or otherwise disposes of property for which the
10 taxpayer was required in any taxable year to make an
11 addition modification under subparagraph (D-15), then
12 an amount equal to the aggregate amount of the
13 deductions taken in all taxable years under
14 subparagraph (Z) with respect to that property.

15 If the taxpayer continues to own property through
16 the last day of the last tax year for which the
17 taxpayer may claim a depreciation deduction for
18 federal income tax purposes and for which the taxpayer
19 was allowed in any taxable year to make a subtraction
20 modification under subparagraph (Z), then an amount
21 equal to that subtraction modification.

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

25 (D-17) An amount equal to the amount otherwise
26 allowed as a deduction in computing base income for

1 interest paid, accrued, or incurred, directly or
2 indirectly, (i) for taxable years ending on or after
3 December 31, 2004, to a foreign person who would be a
4 member of the same unitary business group but for the
5 fact that foreign person's business activity outside
6 the United States is 80% or more of the foreign
7 person's total business activity and (ii) for taxable
8 years ending on or after December 31, 2008, to a person
9 who would be a member of the same unitary business
10 group but for the fact that the person is prohibited
11 under Section 1501(a)(27) from being included in the
12 unitary business group because he or she is ordinarily
13 required to apportion business income under different
14 subsections of Section 304. The addition modification
15 required by this subparagraph shall be reduced to the
16 extent that dividends were included in base income of
17 the unitary group for the same taxable year and
18 received by the taxpayer or by a member of the
19 taxpayer's unitary business group (including amounts
20 included in gross income under Sections 951 through 964
21 of the Internal Revenue Code and amounts included in
22 gross income under Section 78 of the Internal Revenue
23 Code) with respect to the stock of the same person to
24 whom the interest was paid, accrued, or incurred.

25 This paragraph shall not apply to the following:

26 (i) an item of interest paid, accrued, or

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

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

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

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

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

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

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

17 (D-18) An amount equal to the amount of intangible
18 expenses and costs otherwise allowed as a deduction in
19 computing base income, and that were paid, accrued, or
20 incurred, directly or indirectly, (i) for taxable
21 years ending on or after December 31, 2004, to a
22 foreign person who would be a member of the same
23 unitary business group but for the fact that the
24 foreign person's business activity outside the United
25 States is 80% or more of that person's total business
26 activity and (ii) for taxable years ending on or after

1 December 31, 2008, to a person who would be a member of
2 the same unitary business group but for the fact that
3 the person is prohibited under Section 1501(a)(27)
4 from being included in the unitary business group
5 because he or she is ordinarily required to apportion
6 business income under different subsections of Section
7 304. The addition modification required by this
8 subparagraph shall be reduced to the extent that
9 dividends were included in base income of the unitary
10 group for the same taxable year and received by the
11 taxpayer or by a member of the taxpayer's unitary
12 business group (including amounts included in gross
13 income under Sections 951 through 964 of the Internal
14 Revenue Code and amounts included in gross income under
15 Section 78 of the Internal Revenue Code) with respect
16 to the stock of the same person to whom the intangible
17 expenses and costs were directly or indirectly paid,
18 incurred, or accrued. The preceding sentence does not
19 apply to the extent that the same dividends caused a
20 reduction to the addition modification required under
21 Section 203(a)(2)(D-17) of this Act. As used in this
22 subparagraph, the term "intangible expenses and costs"
23 includes (1) expenses, losses, and costs for, or
24 related to, the direct or indirect acquisition, use,
25 maintenance or management, ownership, sale, exchange,
26 or any other disposition of intangible property; (2)

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

10 This paragraph shall not apply to the following:

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

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

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

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

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

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

25 (D-19) For taxable years ending on or after
26 December 31, 2008, an amount equal to the amount of

1 insurance premium expenses and costs otherwise allowed
2 as a deduction in computing base income, and that were
3 paid, accrued, or incurred, directly or indirectly, to
4 a person who would be a member of the same unitary
5 business group but for the fact that the person is
6 prohibited under Section 1501(a)(27) from being
7 included in the unitary business group because he or
8 she is ordinarily required to apportion business
9 income under different subsections of Section 304. The
10 addition modification required by this subparagraph
11 shall be reduced to the extent that dividends were
12 included in base income of the unitary group for the
13 same taxable year and received by the taxpayer or by a
14 member of the taxpayer's unitary business group
15 (including amounts included in gross income under
16 Sections 951 through 964 of the Internal Revenue Code
17 and amounts included in gross income under Section 78
18 of the Internal Revenue Code) with respect to the stock
19 of the same person to whom the premiums and costs were
20 directly or indirectly paid, incurred, or accrued. The
21 preceding sentence does not apply to the extent that
22 the same dividends caused a reduction to the addition
23 modification required under Section 203(a)(2)(D-17) or
24 Section 203(a)(2)(D-18) of this Act.

25 (D-20) For taxable years beginning on or after
26 January 1, 2002 and ending on or before December 31,

1 2006, in the case of a distribution from a qualified
2 tuition program under Section 529 of the Internal
3 Revenue Code, other than (i) a distribution from a
4 College Savings Pool created under Section 16.5 of the
5 State Treasurer Act or (ii) a distribution from the
6 Illinois Prepaid Tuition Trust Fund, an amount equal to
7 the amount excluded from gross income under Section
8 529(c)(3)(B). For taxable years beginning on or after
9 January 1, 2007, in the case of a distribution from a
10 qualified tuition program under Section 529 of the
11 Internal Revenue Code, other than (i) a distribution
12 from a College Savings Pool created under Section 16.5
13 of the State Treasurer Act, (ii) a distribution from
14 the Illinois Prepaid Tuition Trust Fund, or (iii) a
15 distribution from a qualified tuition program under
16 Section 529 of the Internal Revenue Code that (I)
17 adopts and determines that its offering materials
18 comply with the College Savings Plans Network's
19 disclosure principles and (II) has made reasonable
20 efforts to inform in-state residents of the existence
21 of in-state qualified tuition programs by informing
22 Illinois residents directly and, where applicable, to
23 inform financial intermediaries distributing the
24 program to inform in-state residents of the existence
25 of in-state qualified tuition programs at least
26 annually, an amount equal to the amount excluded from

1 gross income under Section 529(c) (3) (B) .

2 For the purposes of this subparagraph (D-20), a
3 qualified tuition program has made reasonable efforts
4 if it makes disclosures (which may use the term
5 "in-state program" or "in-state plan" and need not
6 specifically refer to Illinois or its qualified
7 programs by name) (i) directly to prospective
8 participants in its offering materials or makes a
9 public disclosure, such as a website posting; and (ii)
10 where applicable, to intermediaries selling the
11 out-of-state program in the same manner that the
12 out-of-state program distributes its offering
13 materials;

14 (D-21) For taxable years beginning on or after
15 January 1, 2007, in the case of transfer of moneys from
16 a qualified tuition program under Section 529 of the
17 Internal Revenue Code that is administered by the State
18 to an out-of-state program, an amount equal to the
19 amount of moneys previously deducted from base income
20 under subsection (a) (2) (Y) of this Section.

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

23 (E) For taxable years ending before December 31,
24 2001, any amount included in such total in respect of
25 any compensation (including but not limited to any
26 compensation paid or accrued to a serviceman while a

1 prisoner of war or missing in action) paid to a
2 resident by reason of being on active duty in the Armed
3 Forces of the United States and in respect of any
4 compensation paid or accrued to a resident who as a
5 governmental employee was a prisoner of war or missing
6 in action, and in respect of any compensation paid to a
7 resident in 1971 or thereafter for annual training
8 performed pursuant to Sections 502 and 503, Title 32,
9 United States Code as a member of the Illinois National
10 Guard or, beginning with taxable years ending on or
11 after December 31, 2007, the National Guard of any
12 other state. For taxable years ending on or after
13 December 31, 2001, any amount included in such total in
14 respect of any compensation (including but not limited
15 to any compensation paid or accrued to a serviceman
16 while a prisoner of war or missing in action) paid to a
17 resident by reason of being a member of any component
18 of the Armed Forces of the United States and in respect
19 of any compensation paid or accrued to a resident who
20 as a governmental employee was a prisoner of war or
21 missing in action, and in respect of any compensation
22 paid to a resident in 2001 or thereafter by reason of
23 being a member of the Illinois National Guard or,
24 beginning with taxable years ending on or after
25 December 31, 2007, the National Guard of any other
26 state. The provisions of this amendatory Act of the

1 92nd General Assembly are exempt from the provisions of
2 Section 250;

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

14 (G) The valuation limitation amount;

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

18 (I) An amount equal to all amounts included in such
19 total pursuant to the provisions of Section 111 of the
20 Internal Revenue Code as a recovery of items previously
21 deducted from adjusted gross income in the computation
22 of taxable income;

23 (J) An amount equal to those dividends included in
24 such total which were paid by a corporation which
25 conducts business operations in an Enterprise Zone or
26 zones created under the Illinois Enterprise Zone Act or

1 a River Edge Redevelopment Zone or zones created under
2 the River Edge Redevelopment Zone Act, and conducts
3 substantially all of its operations in an Enterprise
4 Zone or zones or a River Edge Redevelopment Zone or
5 zones. This subparagraph (J) is exempt from the
6 provisions of Section 250;

7 (K) 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 (J) of paragraph (2) of this subsection
14 shall not be eligible for the deduction provided under
15 this subparagraph (K);

16 (L) For taxable years ending after December 31,
17 1983, an amount equal to all social security benefits
18 and railroad retirement benefits included in such
19 total pursuant to Sections 72(r) and 86 of the Internal
20 Revenue Code;

21 (M) With the exception of any amounts subtracted
22 under subparagraph (N), an amount equal to the sum of
23 all amounts disallowed as deductions by (i) Sections
24 171(a) (2), and 265(2) of the Internal Revenue Code of
25 1954, as now or hereafter amended, and all amounts of
26 expenses allocable to interest and disallowed as

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

8 (N) 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 (O) An amount equal to any contribution made to a
18 job training project established pursuant to the Tax
19 Increment Allocation Redevelopment Act;

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

25 (Q) An amount equal to any amounts included in such
26 total, received by the taxpayer as an acceleration in

1 the payment of life, endowment or annuity benefits in
2 advance of the time they would otherwise be payable as
3 an indemnity for a terminal illness;

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

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

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

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

1 (V) Beginning with tax years ending on or after
2 December 31, 1995 and ending with tax years ending on
3 or before December 31, 2004, an amount equal to the
4 amount paid by a taxpayer who is a self-employed
5 taxpayer, a partner of a partnership, or a shareholder
6 in a Subchapter S corporation for health insurance or
7 long-term care insurance for that taxpayer or that
8 taxpayer's spouse or dependents, to the extent that the
9 amount paid for that health insurance or long-term care
10 insurance may be deducted under Section 213 of the
11 Internal Revenue Code of 1986, has not been deducted on
12 the federal income tax return of the taxpayer, and does
13 not exceed the taxable income attributable to that
14 taxpayer's income, self-employment income, or
15 Subchapter S corporation income; except that no
16 deduction shall be allowed under this item (V) if the
17 taxpayer is eligible to participate in any health
18 insurance or long-term care insurance plan of an
19 employer of the taxpayer or the taxpayer's spouse. The
20 amount of the health insurance and long-term care
21 insurance subtracted under this item (V) shall be
22 determined by multiplying total health insurance and
23 long-term care insurance premiums paid by the taxpayer
24 times a number that represents the fractional
25 percentage of eligible medical expenses under Section
26 213 of the Internal Revenue Code of 1986 not actually

1 deducted on the taxpayer's federal income tax return;

2 (W) For taxable years beginning on or after January
3 1, 1998, all amounts included in the taxpayer's federal
4 gross income in the taxable year from amounts converted
5 from a regular IRA to a Roth IRA. This paragraph is
6 exempt from the provisions of Section 250;

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

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

14 (Y) For taxable years beginning on or after January
15 1, 2002 and ending on or before December 31, 2004,
16 moneys contributed in the taxable year to a College
17 Savings Pool account under Section 16.5 of the State
18 Treasurer Act, except that amounts excluded from gross
19 income under Section 529(c)(3)(C)(i) of the Internal
20 Revenue Code shall not be considered moneys
21 contributed under this subparagraph (Y). For taxable
22 years beginning on or after January 1, 2005, a maximum
23 of \$10,000 contributed in the taxable year to (i) a
24 College Savings Pool account under Section 16.5 of the
25 State Treasurer Act or (ii) the Illinois Prepaid
26 Tuition Trust Fund, except that amounts excluded from

1 gross income under Section 529(c)(3)(C)(i) of the
2 Internal Revenue Code shall not be considered moneys
3 contributed under this subparagraph (Y). This
4 subparagraph (Y) is exempt from the provisions of
5 Section 250;

6 (Z) For taxable years 2001 and thereafter, for the
7 taxable year in which the bonus depreciation deduction
8 is taken on the taxpayer's federal income tax return
9 under subsection (k) of Section 168 of the Internal
10 Revenue Code and for each applicable taxable year
11 thereafter, an amount equal to "x", where:

12 (1) "y" equals the amount of the depreciation
13 deduction taken for the taxable year on the
14 taxpayer's federal income tax return on property
15 for which the bonus depreciation deduction was
16 taken in any year under subsection (k) of Section
17 168 of the Internal Revenue Code, but not including
18 the bonus depreciation deduction;

19 (2) for taxable years ending on or before
20 December 31, 2005, "x" equals "y" multiplied by 30
21 and then divided by 70 (or "y" multiplied by
22 0.429); and

23 (3) for taxable years ending after December
24 31, 2005:

25 (i) for property on which a bonus
26 depreciation deduction of 30% of the adjusted

1 basis was taken, "x" equals "y" multiplied by
2 30 and then divided by 70 (or "y" multiplied by
3 0.429); and

4 (ii) for property on which a bonus
5 depreciation deduction of 50% of the adjusted
6 basis was taken, "x" equals "y" multiplied by
7 1.0.

8 The aggregate amount deducted under this
9 subparagraph in all taxable years for any one piece of
10 property may not exceed the amount of the bonus
11 depreciation deduction taken on that property on the
12 taxpayer's federal income tax return under subsection
13 (k) of Section 168 of the Internal Revenue Code. This
14 subparagraph (Z) is exempt from the provisions of
15 Section 250;

16 (AA) If the taxpayer sells, transfers, abandons,
17 or otherwise disposes of property for which the
18 taxpayer was required in any taxable year to make an
19 addition modification under subparagraph (D-15), then
20 an amount equal to that addition modification.

21 If the taxpayer continues to own property through
22 the last day of the last tax year for which the
23 taxpayer may claim a depreciation deduction for
24 federal income tax purposes and for which the taxpayer
25 was required in any taxable year to make an addition
26 modification under subparagraph (D-15), then an amount

1 equal to that addition modification.

2 The taxpayer is allowed to take the deduction under
3 this subparagraph only once with respect to any one
4 piece of property.

5 This subparagraph (AA) is exempt from the
6 provisions of Section 250;

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

10 (CC) 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 that 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 that
25 addition modification. This subparagraph (CC) is
26 exempt from the provisions of Section 250;

1 (DD) An amount equal to the interest income taken
2 into account for the taxable year (net of the
3 deductions allocable thereto) with respect to
4 transactions with (i) a foreign person who would be a
5 member of the taxpayer's unitary business group but for
6 the fact that the foreign person's business activity
7 outside the United States is 80% or more of that
8 person's total business activity and (ii) for taxable
9 years ending on or after December 31, 2008, to a person
10 who would be a member of the same unitary business
11 group but for the fact that the person is prohibited
12 under Section 1501(a)(27) from being included in the
13 unitary business group because he or she is ordinarily
14 required to apportion business income under different
15 subsections of Section 304, but not to exceed the
16 addition modification required to be made for the same
17 taxable year under Section 203(a)(2)(D-17) for
18 interest paid, accrued, or incurred, directly or
19 indirectly, to the same person. This subparagraph (DD)
20 is exempt from the provisions of Section 250; and

21 (EE) An amount equal to the income from intangible
22 property taken into account for the taxable year (net
23 of the deductions allocable thereto) with respect to
24 transactions with (i) a foreign person who would be a
25 member of the taxpayer's unitary business group but for
26 the fact that the foreign person's business activity

1 outside the United States is 80% or more of that
2 person's total business activity and (ii) for taxable
3 years ending on or after December 31, 2008, to a person
4 who would be a member of the same unitary business
5 group but for the fact that the person is prohibited
6 under Section 1501(a)(27) from being included in the
7 unitary business group because he or she is ordinarily
8 required to apportion business income under different
9 subsections of Section 304, but not to exceed the
10 addition modification required to be made for the same
11 taxable year under Section 203(a)(2)(D-18) for
12 intangible expenses and costs paid, accrued, or
13 incurred, directly or indirectly, to the same foreign
14 person. This subparagraph (EE) is exempt from the
15 provisions of Section 250.

16 (b) Corporations.

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

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

23 (A) An amount equal to all amounts paid or accrued
24 to the taxpayer as interest and all distributions
25 received from regulated investment companies during

1 the taxable year to the extent excluded from gross
2 income in the computation of taxable income;

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

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

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

20 (E) For taxable years in which a net operating loss
21 carryback or carryforward from a taxable year ending
22 prior to December 31, 1986 is an element of taxable
23 income under paragraph (1) of subsection (e) or
24 subparagraph (E) of paragraph (2) of subsection (e),
25 the amount by which addition modifications other than
26 those provided by this subparagraph (E) exceeded

1 subtraction modifications in such earlier taxable
2 year, with the following limitations applied in the
3 order that 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 (E-5) For taxable years ending after December 31,
25 1997, an amount equal to any eligible remediation costs
26 that the corporation deducted in computing adjusted

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

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

8 (E-11) If the taxpayer sells, transfers, abandons,
9 or otherwise disposes of property for which the
10 taxpayer was required in any taxable year to make an
11 addition modification under subparagraph (E-10), then
12 an amount equal to the aggregate amount of the
13 deductions taken in all taxable years under
14 subparagraph (T) with respect to that property.

15 If the taxpayer continues to own property through
16 the last day of the last tax year for which the
17 taxpayer may claim a depreciation deduction for
18 federal income tax purposes and for which the taxpayer
19 was allowed in any taxable year to make a subtraction
20 modification under subparagraph (T), then an amount
21 equal to that subtraction modification.

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

25 (E-12) An amount equal to the amount otherwise
26 allowed as a deduction in computing base income for

1 interest paid, accrued, or incurred, directly or
2 indirectly, (i) for taxable years ending on or after
3 December 31, 2004, to a foreign person who would be a
4 member of the same unitary business group but for the
5 fact the foreign person's business activity outside
6 the United States is 80% or more of the foreign
7 person's total business activity and (ii) for taxable
8 years ending on or after December 31, 2008, to a person
9 who would be a member of the same unitary business
10 group but for the fact that the person is prohibited
11 under Section 1501(a)(27) from being included in the
12 unitary business group because he or she is ordinarily
13 required to apportion business income under different
14 subsections of Section 304. The addition modification
15 required by this subparagraph shall be reduced to the
16 extent that dividends were included in base income of
17 the unitary group for the same taxable year and
18 received by the taxpayer or by a member of the
19 taxpayer's unitary business group (including amounts
20 included in gross income pursuant to Sections 951
21 through 964 of the Internal Revenue Code and amounts
22 included in gross income under Section 78 of the
23 Internal Revenue Code) with respect to the stock of the
24 same person to whom the interest was paid, accrued, or
25 incurred.

26 This paragraph shall not apply to the following:

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

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

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

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

22 (iii) the taxpayer can establish, based on
23 clear and convincing evidence, that the interest
24 paid, accrued, or incurred relates to a contract or
25 agreement entered into at arm's-length rates and
26 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 person if
4 the taxpayer establishes by clear and convincing
5 evidence that the adjustments are unreasonable; or
6 if the taxpayer and the Director agree in writing
7 to the application or use of an alternative method
8 of apportionment under Section 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 (E-13) An amount equal to the amount of intangible
19 expenses and costs otherwise allowed as a deduction in
20 computing base income, and that were paid, accrued, or
21 incurred, directly or indirectly, (i) for taxable
22 years ending on or after December 31, 2004, to a
23 foreign person who would be a member of the same
24 unitary business group but for the fact that the
25 foreign person's business activity outside the United
26 States is 80% or more of that person's total business

1 activity and (ii) for taxable years ending on or after
2 December 31, 2008, to a person who would be a member of
3 the same unitary business group but for the fact that
4 the person is prohibited under Section 1501(a)(27)
5 from being included in the unitary business group
6 because he or she is ordinarily required to apportion
7 business income under different subsections of Section
8 304. The addition modification required by this
9 subparagraph shall be reduced to the extent that
10 dividends were included in base income of the unitary
11 group for the same taxable year and received by the
12 taxpayer or by a member of the taxpayer's unitary
13 business group (including amounts included in gross
14 income pursuant to Sections 951 through 964 of the
15 Internal Revenue Code and amounts included in gross
16 income under Section 78 of the Internal Revenue Code)
17 with respect to the stock of the same person to whom
18 the intangible expenses and costs were directly or
19 indirectly paid, incurred, or accrued. The preceding
20 sentence shall not apply to the extent that the same
21 dividends caused a reduction to the addition
22 modification required under Section 203(b)(2)(E-12) of
23 this Act. As used in this subparagraph, the term
24 "intangible expenses and costs" includes (1) expenses,
25 losses, and costs for, or related to, the direct or
26 indirect acquisition, use, maintenance or management,

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

11 This paragraph shall not apply to the following:

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

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

24 (a) the person during the same taxable
25 year paid, accrued, or incurred, the
26 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 person did not have as a
5 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 person if the
12 taxpayer establishes by clear and convincing
13 evidence, that the adjustments are unreasonable;
14 or if the taxpayer and the Director agree in
15 writing to the application or use of an alternative
16 method of apportionment under Section 304(f);

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

26 (E-14) For taxable years ending on or after

1 December 31, 2008, an amount equal to the amount of
2 insurance premium expenses and costs otherwise allowed
3 as a deduction in computing base income, and that were
4 paid, accrued, or incurred, directly or indirectly, to
5 a person who would be a member of the same unitary
6 business group but for the fact that the person is
7 prohibited under Section 1501(a)(27) from being
8 included in the unitary business group because he or
9 she is ordinarily required to apportion business
10 income under different subsections of Section 304. The
11 addition modification required by this subparagraph
12 shall be reduced to the extent that dividends were
13 included in base income of the unitary group for the
14 same taxable year and received by the taxpayer or by a
15 member of the taxpayer's unitary business group
16 (including amounts included in gross income under
17 Sections 951 through 964 of the Internal Revenue Code
18 and amounts included in gross income under Section 78
19 of the Internal Revenue Code) with respect to the stock
20 of the same person to whom the premiums and costs were
21 directly or indirectly paid, incurred, or accrued. The
22 preceding sentence does not apply to the extent that
23 the same dividends caused a reduction to the addition
24 modification required under Section 203(b)(2)(E-12) or
25 Section 203(b)(2)(E-13) of this Act;

26 (E-15) For taxable years beginning after December

1 31, 2008, any deduction for dividends paid by a captive
2 real estate investment trust that is allowed to a real
3 estate investment trust under Section 857(b)(2)(B) of
4 the Internal Revenue Code for dividends paid;

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

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

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

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

17 (I) With the exception of any amounts subtracted
18 under subparagraph (J), an amount equal to the sum of
19 all amounts disallowed as deductions by (i) Sections
20 171(a) (2), and 265(a)(2) and amounts disallowed as
21 interest expense by Section 291(a)(3) of the Internal
22 Revenue Code, as now or hereafter amended, and all
23 amounts of expenses allocable to interest and
24 disallowed as deductions by Section 265(a)(1) of the
25 Internal Revenue Code, as now or hereafter amended; and
26 (ii) for taxable years ending on or after August 13,

1 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and
2 832(b)(5)(B)(i) of the Internal Revenue Code; the
3 provisions of this subparagraph are exempt from the
4 provisions of Section 250;

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

14 (K) An amount equal to those dividends included in
15 such total which were paid by a corporation which
16 conducts business operations in an Enterprise Zone or
17 zones created under the Illinois Enterprise Zone Act or
18 a River Edge Redevelopment Zone or zones created under
19 the River Edge Redevelopment Zone Act and conducts
20 substantially all of its operations in an Enterprise
21 Zone or zones or a River Edge Redevelopment Zone or
22 zones. This subparagraph (K) is exempt from the
23 provisions of Section 250;

24 (L) 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

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

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

1 such loan attributable to the eligible property as
2 calculated under the previous sentence. This
3 subparagraph (M) is exempt from the provisions of
4 Section 250;

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

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

4 (N) Two times any contribution made during the
5 taxable year to a designated zone organization to the
6 extent that the contribution (i) qualifies as a
7 charitable contribution under subsection (c) of
8 Section 170 of the Internal Revenue Code and (ii) must,
9 by its terms, be used for a project approved by the
10 Department of Commerce and Economic Opportunity under
11 Section 11 of the Illinois Enterprise Zone Act or under
12 Section 10-10 of the River Edge Redevelopment Zone Act.
13 This subparagraph (N) is exempt from the provisions of
14 Section 250;

15 (O) An amount equal to: (i) 85% for taxable years
16 ending on or before December 31, 1992, or, a percentage
17 equal to the percentage allowable under Section
18 243(a)(1) of the Internal Revenue Code of 1986 for
19 taxable years ending after December 31, 1992, of the
20 amount by which dividends included in taxable income
21 and received from a corporation that is not created or
22 organized under the laws of the United States or any
23 state or political subdivision thereof, including, for
24 taxable years ending on or after December 31, 1988,
25 dividends received or deemed received or paid or deemed
26 paid under Sections 951 through 964 of the Internal

1 Revenue Code, exceed the amount of the modification
2 provided under subparagraph (G) of paragraph (2) of
3 this subsection (b) which is related to such dividends,
4 and including, for taxable years ending on or after
5 December 31, 2008, dividends received from a captive
6 real estate investment trust; plus (ii) 100% of the
7 amount by which dividends, included in taxable income
8 and received, including, for taxable years ending on or
9 after December 31, 1988, dividends received or deemed
10 received or paid or deemed paid under Sections 951
11 through 964 of the Internal Revenue Code and including,
12 for taxable years ending on or after December 31, 2008,
13 dividends received from a captive real estate
14 investment trust, from any such corporation specified
15 in clause (i) that would but for the provisions of
16 Section 1504 (b) (3) of the Internal Revenue Code be
17 treated as a member of the affiliated group which
18 includes the dividend recipient, exceed the amount of
19 the modification provided under subparagraph (G) of
20 paragraph (2) of this subsection (b) which is related
21 to such dividends. This subparagraph (O) is exempt from
22 the provisions of Section 250 of this Act;

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

26 (Q) An amount equal to the amount of the deduction

1 used to compute the federal income tax credit for
2 restoration of substantial amounts held under claim of
3 right for the taxable year pursuant to Section 1341 of
4 the Internal Revenue Code of 1986;

5 (R) On and after July 20, 1999, in the case of an
6 attorney-in-fact with respect to whom an interinsurer
7 or a reciprocal insurer has made the election under
8 Section 835 of the Internal Revenue Code, 26 U.S.C.
9 835, an amount equal to the excess, if any, of the
10 amounts paid or incurred by that interinsurer or
11 reciprocal insurer in the taxable year to the
12 attorney-in-fact over the deduction allowed to that
13 interinsurer or reciprocal insurer with respect to the
14 attorney-in-fact under Section 835(b) of the Internal
15 Revenue Code for the taxable year; the provisions of
16 this subparagraph are exempt from the provisions of
17 Section 250;

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

1 provisions of Section 250;

2 (T) For taxable years 2001 and thereafter, for the
3 taxable year in which the bonus depreciation deduction
4 is taken on the taxpayer's federal income tax return
5 under subsection (k) of Section 168 of the Internal
6 Revenue Code and for each applicable taxable year
7 thereafter, an amount equal to "x", where:

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

15 (2) for taxable years ending on or before
16 December 31, 2005, "x" equals "y" multiplied by 30
17 and then divided by 70 (or "y" multiplied by
18 0.429); and

19 (3) for taxable years ending after December
20 31, 2005:

21 (i) for property on which a bonus
22 depreciation deduction of 30% of the adjusted
23 basis was taken, "x" equals "y" multiplied by
24 30 and then divided by 70 (or "y" multiplied by
25 0.429); and

26 (ii) for property on which a bonus

1 depreciation deduction of 50% of the adjusted
2 basis was taken, "x" equals "y" multiplied by
3 1.0.

4 The aggregate amount deducted under this
5 subparagraph in all taxable years for any one piece of
6 property may not exceed the amount of the bonus
7 depreciation deduction taken on that property on the
8 taxpayer's federal income tax return under subsection
9 (k) of Section 168 of the Internal Revenue Code. This
10 subparagraph (T) is exempt from the provisions of
11 Section 250;

12 (U) If the taxpayer sells, transfers, abandons, or
13 otherwise disposes of property for which the taxpayer
14 was required in any taxable year to make an addition
15 modification under subparagraph (E-10), then an amount
16 equal to that addition modification.

17 If the taxpayer continues to own property through
18 the last day of the last tax year for which the
19 taxpayer may claim a depreciation deduction for
20 federal income tax purposes and for which the taxpayer
21 was required in any taxable year to make an addition
22 modification under subparagraph (E-10), then an amount
23 equal to that addition modification.

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

1 This subparagraph (U) is exempt from the
2 provisions of Section 250;

3 (V) The amount of: (i) any interest income (net of
4 the deductions allocable thereto) taken into account
5 for the taxable year with respect to a transaction with
6 a taxpayer that is required to make an addition
7 modification with respect to such transaction under
8 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
9 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
10 the amount of such addition modification, (ii) any
11 income from intangible property (net of the deductions
12 allocable thereto) taken into account for the taxable
13 year with respect to a transaction with a taxpayer that
14 is required to make an addition modification with
15 respect to such transaction under Section
16 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
17 203(d)(2)(D-8), but not to exceed the amount of such
18 addition modification, and (iii) any insurance premium
19 income (net of deductions allocable thereto) taken
20 into account for the taxable year with respect to a
21 transaction with a taxpayer that is required to make an
22 addition modification with respect to such transaction
23 under Section 203(a)(2)(D-19), Section
24 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section
25 203(d)(2)(D-9), but not to exceed the amount of that
26 addition modification. This subparagraph (V) is exempt

1 from the provisions of Section 250;

2 (W) An amount equal to the interest income taken
3 into account for the taxable year (net of the
4 deductions allocable thereto) with respect to
5 transactions with (i) 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 and (ii) for taxable
10 years ending on or after December 31, 2008, to a person
11 who would be a member of the same unitary business
12 group but for the fact that the person is prohibited
13 under Section 1501(a)(27) from being included in the
14 unitary business group because he or she is ordinarily
15 required to apportion business income under different
16 subsections of Section 304, but not to exceed the
17 addition modification required to be made for the same
18 taxable year under Section 203(b)(2)(E-12) for
19 interest paid, accrued, or incurred, directly or
20 indirectly, to the same person. This subparagraph (W)
21 is exempt from the provisions of Section 250; and

22 (X) An amount equal to the income from intangible
23 property taken into account for the taxable year (net
24 of the deductions allocable thereto) with respect to
25 transactions with (i) a foreign person who would be a
26 member of the taxpayer's unitary business group but for

1 the fact that the foreign person's business activity
2 outside the United States is 80% or more of that
3 person's total business activity and (ii) for taxable
4 years ending on or after December 31, 2008, to a person
5 who would be a member of the same unitary business
6 group but for the fact that the person is prohibited
7 under Section 1501(a)(27) from being included in the
8 unitary business group because he or she is ordinarily
9 required to apportion business income under different
10 subsections of Section 304, but not to exceed the
11 addition modification required to be made for the same
12 taxable year under Section 203(b)(2)(E-13) for
13 intangible expenses and costs paid, accrued, or
14 incurred, directly or indirectly, to the same foreign
15 person. This subparagraph (X) is exempt from the
16 provisions of Section 250. ~~(Y)~~

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

21 (c) Trusts and estates.

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

25 (2) Modifications. Subject to the provisions of

1 paragraph (3), the taxable income referred to in paragraph
2 (1) shall be modified by adding thereto the sum of the
3 following amounts:

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

8 (B) In the case of (i) an estate, \$600; (ii) a
9 trust which, under its governing instrument, is
10 required to distribute all of its income currently,
11 \$300; and (iii) any other trust, \$100, but in each such
12 case, only to the extent such amount was deducted in
13 the computation of taxable income;

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

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

21 (E) For taxable years in which a net operating loss
22 carryback or carryforward from a taxable year ending
23 prior to December 31, 1986 is an element of taxable
24 income under paragraph (1) of subsection (e) or
25 subparagraph (E) of paragraph (2) of subsection (e),
26 the amount by which addition modifications other than

1 those provided by this subparagraph (E) exceeded
2 subtraction modifications in such taxable year, with
3 the following limitations applied in the order that
4 they are listed:

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

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

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

25 (F) For taxable years ending on or after January 1,
26 1989, an amount equal to the tax deducted pursuant to

1 Section 164 of the Internal Revenue Code if the trust
2 or estate is claiming the same tax for purposes of the
3 Illinois foreign tax credit under Section 601 of this
4 Act;

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

9 (G-5) For taxable years ending after December 31,
10 1997, an amount equal to any eligible remediation costs
11 that the trust or estate deducted in computing adjusted
12 gross income and for which the trust or estate claims a
13 credit under subsection (l) of Section 201;

14 (G-10) For taxable years 2001 and thereafter, an
15 amount equal to the bonus depreciation deduction taken
16 on the taxpayer's federal income tax return for the
17 taxable year under subsection (k) of Section 168 of the
18 Internal Revenue Code; and

19 (G-11) If the taxpayer sells, transfers, abandons,
20 or otherwise disposes of property for which the
21 taxpayer was required in any taxable year to make an
22 addition modification under subparagraph (G-10), then
23 an amount equal to the aggregate amount of the
24 deductions taken in all taxable years under
25 subparagraph (R) with respect to that property.

26 If the taxpayer continues to own property through

1 the last day of the last tax year for which the
2 taxpayer may claim a depreciation deduction for
3 federal income tax purposes and for which the taxpayer
4 was allowed in any taxable year to make a subtraction
5 modification under subparagraph (R), then an amount
6 equal to that subtraction modification.

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

10 (G-12) An amount equal to the amount otherwise
11 allowed as a deduction in computing base income for
12 interest paid, accrued, or incurred, directly or
13 indirectly, (i) for taxable years ending on or after
14 December 31, 2004, to a foreign person who would be a
15 member of the same unitary business group but for the
16 fact that the foreign person's business activity
17 outside the United States is 80% or more of the foreign
18 person's total business activity and (ii) for taxable
19 years ending on or after December 31, 2008, to a person
20 who would be a member of the same unitary business
21 group but for the fact that the person is prohibited
22 under Section 1501(a)(27) from being included in the
23 unitary business group because he or she is ordinarily
24 required to apportion business income under different
25 subsections of Section 304. The addition modification
26 required by this subparagraph shall be reduced to the

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

11 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the

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

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

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

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

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

3 (G-13) An amount equal to the amount of intangible
4 expenses and costs otherwise allowed as a deduction in
5 computing base income, and that were paid, accrued, or
6 incurred, directly or indirectly, (i) for taxable
7 years ending on or after December 31, 2004, to a
8 foreign person who would be a member of the same
9 unitary business group but for the fact that the
10 foreign person's business activity outside the United
11 States is 80% or more of that person's total business
12 activity and (ii) for taxable years ending on or after
13 December 31, 2008, to a person who would be a member of
14 the same unitary business group but for the fact that
15 the person is prohibited under Section 1501(a)(27)
16 from being included in the unitary business group
17 because he or she is ordinarily required to apportion
18 business income under different subsections of Section
19 304. 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

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

22 This paragraph shall not apply to the following:

23 (i) any item of intangible expenses or costs
24 paid, accrued, or incurred, directly or
25 indirectly, from a transaction with a person who is
26 subject in a foreign country or state, other than a

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

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

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

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

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

1 method of apportionment under Section 304(f);

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

11 (G-14) For taxable years ending on or after
12 December 31, 2008, an amount equal to the amount of
13 insurance premium expenses and costs otherwise allowed
14 as a deduction in computing base income, and that were
15 paid, accrued, or incurred, directly or indirectly, to
16 a person who would be a member of the same unitary
17 business group but for the fact that the person is
18 prohibited under Section 1501(a)(27) from being
19 included in the unitary business group because he or
20 she is ordinarily required to apportion business
21 income under different subsections of Section 304. The
22 addition modification required by this subparagraph
23 shall be reduced to the extent that dividends were
24 included in base income of the unitary group for the
25 same taxable year and received by the taxpayer or by a
26 member of the taxpayer's unitary business group

1 (including amounts included in gross income under
2 Sections 951 through 964 of the Internal Revenue Code
3 and amounts included in gross income under Section 78
4 of the Internal Revenue Code) with respect to the stock
5 of the same person to whom the premiums and costs were
6 directly or indirectly paid, incurred, or accrued. The
7 preceding sentence does not apply to the extent that
8 the same dividends caused a reduction to the addition
9 modification required under Section 203(c)(2)(G-12) or
10 Section 203(c)(2)(G-13) of this Act.

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

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

24 (I) The valuation limitation amount;

25 (J) An amount equal to the amount of any tax
26 imposed by this Act which was refunded to the taxpayer

1 and included in such total for the taxable year;

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

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

26 (M) An amount equal to those dividends included in

1 such total which were paid by a corporation which
2 conducts business operations in an Enterprise Zone or
3 zones created under the Illinois Enterprise Zone Act or
4 a River Edge Redevelopment Zone or zones created under
5 the River Edge Redevelopment Zone Act and conducts
6 substantially all of its operations in an Enterprise
7 Zone or Zones or a River Edge Redevelopment Zone or
8 zones. This subparagraph (M) is exempt from the
9 provisions of Section 250;

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

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

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

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

1 Germany or any other Axis regime or as an heir of the
2 victim. The amount of and the eligibility for any
3 public assistance, benefit, or similar entitlement is
4 not affected by the inclusion of items (i) and (ii) of
5 this paragraph in gross income for federal income tax
6 purposes. This paragraph is exempt from the provisions
7 of Section 250;

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

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

21 (2) for taxable years ending on or before
22 December 31, 2005, "x" equals "y" multiplied by 30
23 and then divided by 70 (or "y" multiplied by
24 0.429); and

25 (3) for taxable years ending after December
26 31, 2005:

1 (i) for property on which a bonus
2 depreciation deduction of 30% of the adjusted
3 basis was taken, "x" equals "y" multiplied by
4 30 and then divided by 70 (or "y" multiplied by
5 0.429); and

6 (ii) for property on which a bonus
7 depreciation deduction of 50% of the adjusted
8 basis was taken, "x" equals "y" multiplied by
9 1.0.

10 The aggregate amount deducted under this
11 subparagraph in all taxable years for any one piece of
12 property may not exceed the amount of the bonus
13 depreciation deduction taken on that property on the
14 taxpayer's federal income tax return under subsection
15 (k) of Section 168 of the Internal Revenue Code. This
16 subparagraph (R) is exempt from the provisions of
17 Section 250;

18 (S) If the taxpayer sells, transfers, abandons, or
19 otherwise disposes of property for which the taxpayer
20 was required in any taxable year to make an addition
21 modification under subparagraph (G-10), then an amount
22 equal to that addition modification.

23 If the taxpayer continues to own property through
24 the last day of the last tax year for which the
25 taxpayer may claim a depreciation deduction for
26 federal income tax purposes and for which the taxpayer

1 was required in any taxable year to make an addition
2 modification under subparagraph (G-10), then an amount
3 equal to that addition modification.

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

7 This subparagraph (S) is exempt from the
8 provisions of Section 250;

9 (T) The amount of (i) any interest income (net of
10 the deductions allocable thereto) taken into account
11 for the taxable year with respect to a transaction with
12 a taxpayer that is required to make an addition
13 modification with respect to such transaction under
14 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
15 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
16 the amount of such addition modification and (ii) any
17 income from intangible property (net of the deductions
18 allocable thereto) taken into account for the taxable
19 year with respect to a transaction with a taxpayer that
20 is required to make an addition modification with
21 respect to such transaction under Section
22 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
23 203(d)(2)(D-8), but not to exceed the amount of such
24 addition modification. This subparagraph (T) is exempt
25 from the provisions of Section 250;

26 (U) An amount equal to the interest income taken

1 into account for the taxable year (net of the
2 deductions allocable thereto) with respect to
3 transactions with (i) a foreign person who would be a
4 member of the taxpayer's unitary business group but for
5 the fact the foreign person's business activity
6 outside the United States is 80% or more of that
7 person's total business activity and (ii) for taxable
8 years ending on or after December 31, 2008, to a person
9 who would be a member of the same unitary business
10 group but for the fact that the person is prohibited
11 under Section 1501(a)(27) from being included in the
12 unitary business group because he or she is ordinarily
13 required to apportion business income under different
14 subsections of Section 304, but not to exceed the
15 addition modification required to be made for the same
16 taxable year under Section 203(c)(2)(G-12) for
17 interest paid, accrued, or incurred, directly or
18 indirectly, to the same person. This subparagraph (U)
19 is exempt from the provisions of Section 250; and

20 (V) An amount equal to the income from intangible
21 property taken into account for the taxable year (net
22 of the deductions allocable thereto) with respect to
23 transactions with (i) a foreign person who would be a
24 member of the taxpayer's unitary business group but for
25 the fact that the foreign person's business activity
26 outside the United States is 80% or more of that

1 person's total business activity and (ii) for taxable
2 years ending on or after December 31, 2008, to a person
3 who would be a member of the same unitary business
4 group but for the fact that the person is prohibited
5 under Section 1501(a)(27) from being included in the
6 unitary business group because he or she is ordinarily
7 required to apportion business income under different
8 subsections of Section 304, but not to exceed the
9 addition modification required to be made for the same
10 taxable year under Section 203(c)(2)(G-13) for
11 intangible expenses and costs paid, accrued, or
12 incurred, directly or indirectly, to the same foreign
13 person. This subparagraph (V) is exempt from the
14 provisions of Section 250. ~~(W)~~

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).

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

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

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

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

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

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

23 (D-6) If the taxpayer sells, transfers, abandons,
24 or otherwise disposes of property for which the
25 taxpayer was required in any taxable year to make an
26 addition modification under subparagraph (D-5), then

1 an amount equal to the aggregate amount of the
2 deductions taken in all taxable years under
3 subparagraph (O) with respect to that property.

4 If the taxpayer continues to own property through
5 the last day of the last tax year for which the
6 taxpayer may claim a depreciation deduction for
7 federal income tax purposes and for which the taxpayer
8 was allowed in any taxable year to make a subtraction
9 modification under subparagraph (O), then an amount
10 equal to that subtraction modification.

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

14 (D-7) An amount equal to the amount otherwise
15 allowed as a deduction in computing base income for
16 interest paid, accrued, or incurred, directly or
17 indirectly, (i) for taxable years ending on or after
18 December 31, 2004, to a foreign person who would be a
19 member of the same unitary business group but for the
20 fact the foreign person's business activity outside
21 the United States is 80% or more of the foreign
22 person's total business activity and (ii) for taxable
23 years ending on or after December 31, 2008, to a person
24 who would be a member of the same unitary business
25 group but for the fact that the person is prohibited
26 under Section 1501(a)(27) from being included in the

1 unitary business group because he or she is ordinarily
2 required to apportion business income under different
3 subsections of Section 304. The addition modification
4 required by this subparagraph shall be reduced to the
5 extent that dividends were included in base income of
6 the unitary group for the same taxable year and
7 received by the taxpayer or by a member of the
8 taxpayer's unitary business group (including amounts
9 included in gross income pursuant to Sections 951
10 through 964 of the Internal Revenue Code and amounts
11 included in gross income under Section 78 of the
12 Internal Revenue Code) with respect to the stock of the
13 same person to whom the interest was paid, accrued, or
14 incurred.

15 This paragraph shall not apply to the following:

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

22 (ii) an item of interest paid, accrued, or
23 incurred, directly or indirectly, to a person if
24 the taxpayer can establish, based on a
25 preponderance of the evidence, both of the
26 following:

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

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

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

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

24 Nothing in this subsection shall preclude the
25 Director from making any other adjustment
26 otherwise allowed under Section 404 of this Act for

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

7 (D-8) An amount equal to the amount of intangible
8 expenses and costs otherwise allowed as a deduction in
9 computing base income, and that were paid, accrued, or
10 incurred, directly or indirectly, (i) for taxable
11 years ending on or after December 31, 2004, 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 and (ii) for taxable years ending on or after
17 December 31, 2008, to a person who would be a member of
18 the same unitary business group but for the fact that
19 the person is prohibited under Section 1501(a)(27)
20 from being included in the unitary business group
21 because he or she is ordinarily required to apportion
22 business income under different subsections of Section
23 304. The addition modification required by this
24 subparagraph shall be reduced to the extent that
25 dividends were included in base income of the unitary
26 group for the same taxable year and received by the

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

26 This paragraph shall not apply to the following:

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

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

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

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

24 (iii) any item of intangible expense or cost
25 paid, accrued, or incurred, directly or
26 indirectly, from a transaction with a person if the

1 taxpayer establishes by clear and convincing
2 evidence, that the adjustments are unreasonable;
3 or if the taxpayer and the Director agree in
4 writing to the application or use of an alternative
5 method of apportionment under Section 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-9) For taxable years ending on or after December
16 31, 2008, an amount equal to the amount of insurance
17 premium 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 person who would be a member of the same unitary
21 business group but for the fact that the person is
22 prohibited under Section 1501(a)(27) from being
23 included in the unitary business group because he or
24 she is ordinarily required to apportion business
25 income under different subsections of Section 304. The
26 addition modification required by this subparagraph

1 shall be reduced to the extent that dividends were
2 included in base income of the unitary group for the
3 same taxable year and received by the taxpayer or by a
4 member of the taxpayer's unitary business group
5 (including amounts included in gross income under
6 Sections 951 through 964 of the Internal Revenue Code
7 and amounts included in gross income under Section 78
8 of the Internal Revenue Code) with respect to the stock
9 of the same person to whom the premiums and costs were
10 directly or indirectly paid, incurred, or accrued. The
11 preceding sentence does not apply to the extent that
12 the same dividends caused a reduction to the addition
13 modification required under Section 203(d)(2)(D-7) or
14 Section 203(d)(2)(D-8) of this Act.

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

17 (E) The valuation limitation amount;

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

21 (G) An amount equal to all amounts included in
22 taxable income as modified by subparagraphs (A), (B),
23 (C) and (D) which are exempt from taxation by this
24 State either by reason of its statutes or Constitution
25 or by reason of the Constitution, treaties or statutes
26 of the United States; provided that, in the case of any

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

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

11 (I) An amount equal to all amounts of income
12 distributable to an entity subject to the Personal
13 Property Tax Replacement Income Tax imposed by
14 subsections (c) and (d) of Section 201 of this Act
15 including amounts distributable to organizations
16 exempt from federal income tax by reason of Section
17 501(a) of the Internal Revenue Code, provided that the
18 deduction under this subparagraph (I) shall not be
19 allowed to a publicly traded partnership under Section
20 7704 of the Internal Revenue Code for any taxable year
21 ending on or after December 31, 2009;

22 (J) With the exception of any amounts subtracted
23 under subparagraph (G), an amount equal to the sum of
24 all amounts disallowed as deductions by (i) Sections
25 171(a) (2), and 265(2) of the Internal Revenue Code of
26 1954, as now or hereafter amended, and all amounts of

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

9 (K) An amount equal to those dividends included in
10 such total which were paid by a corporation which
11 conducts business operations in an Enterprise Zone or
12 zones created under the Illinois Enterprise Zone Act,
13 enacted by the 82nd General Assembly, or a River Edge
14 Redevelopment Zone or zones created under the River
15 Edge Redevelopment Zone Act and conducts substantially
16 all of its operations in an Enterprise Zone or Zones or
17 from a River Edge Redevelopment Zone or zones. This
18 subparagraph (K) is exempt from the provisions of
19 Section 250;

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

23 (M) 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

1 High Impact Business located in Illinois; provided
2 that dividends eligible for the deduction provided in
3 subparagraph (K) of paragraph (2) of this subsection
4 shall not be eligible for the deduction provided under
5 this subparagraph (M);

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

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

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

24 (2) for taxable years ending on or before
25 December 31, 2005, "x" equals "y" multiplied by 30
26 and then divided by 70 (or "y" multiplied by

1 0.429); and

2 (3) for taxable years ending after December
3 31, 2005:

4 (i) for property on which a bonus
5 depreciation deduction of 30% of the adjusted
6 basis was taken, "x" equals "y" multiplied by
7 30 and then divided by 70 (or "y" multiplied by
8 0.429); and

9 (ii) for property on which a bonus
10 depreciation deduction of 50% of the adjusted
11 basis was taken, "x" equals "y" multiplied by
12 1.0.

13 The aggregate amount deducted under this
14 subparagraph in all taxable years for any one piece of
15 property may not exceed the amount of the bonus
16 depreciation deduction taken on that property on the
17 taxpayer's federal income tax return under subsection
18 (k) of Section 168 of the Internal Revenue Code. This
19 subparagraph (O) is exempt from the provisions of
20 Section 250;

21 (P) If the taxpayer sells, transfers, abandons, or
22 otherwise disposes of property for which the taxpayer
23 was required in any taxable year to make an addition
24 modification under subparagraph (D-5), then an amount
25 equal to that addition modification.

26 If the taxpayer continues to own property through

1 the last day of the last tax year for which the
2 taxpayer may claim a depreciation deduction for
3 federal income tax purposes and for which the taxpayer
4 was required in any taxable year to make an addition
5 modification under subparagraph (D-5), then an amount
6 equal to that addition 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 This subparagraph (P) is exempt from the
11 provisions of Section 250;

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

1 addition modification. This subparagraph (Q) is exempt
2 from Section 250;

3 (R) An amount equal to the interest income taken
4 into account for the taxable year (net of the
5 deductions allocable thereto) with respect to
6 transactions with (i) a foreign person who would be a
7 member of the taxpayer's unitary business group but for
8 the fact that the foreign person's business activity
9 outside the United States is 80% or more of that
10 person's total business activity and (ii) for taxable
11 years ending on or after December 31, 2008, to a person
12 who would be a member of the same unitary business
13 group but for the fact that the person is prohibited
14 under Section 1501(a)(27) from being included in the
15 unitary business group because he or she is ordinarily
16 required to apportion business income under different
17 subsections of Section 304, but not to exceed the
18 addition modification required to be made for the same
19 taxable year under Section 203(d)(2)(D-7) for interest
20 paid, accrued, or incurred, directly or indirectly, to
21 the same person. This subparagraph (R) is exempt from
22 Section 250; and

23 (S) 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 (i) a foreign person who would be a

1 member of the taxpayer's unitary business group but for
2 the fact that the foreign person's business activity
3 outside the United States is 80% or more of that
4 person's total business activity and (ii) for taxable
5 years ending on or after December 31, 2008, to a person
6 who would be a member of the same unitary business
7 group but for the fact that the person is prohibited
8 under Section 1501(a)(27) from being included in the
9 unitary business group because he or she is ordinarily
10 required to apportion business income under different
11 subsections of Section 304, but not to exceed the
12 addition modification required to be made for the same
13 taxable year under Section 203(d)(2)(D-8) for
14 intangible expenses and costs paid, accrued, or
15 incurred, directly or indirectly, to the same person.
16 This subparagraph (S) is exempt from Section 250. ~~(T)~~

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

18 (1) In general. Subject to the provisions of paragraph
19 (2) and subsection (b) (3), for purposes of this Section
20 and Section 803(e), a taxpayer's gross income, adjusted
21 gross income, or taxable income for the taxable year shall
22 mean the amount of gross income, adjusted gross income or
23 taxable income properly reportable for federal income tax
24 purposes for the taxable year under the provisions of the
25 Internal Revenue Code. Taxable income may be less than

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

25 (2) Special rule. For purposes of paragraph (1) of this
26 subsection, the taxable income properly reportable for

1 federal income tax purposes shall mean:

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

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

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

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

21 (E) Consolidated corporations. In the case of a
22 corporation which is a member of an affiliated group of
23 corporations filing a consolidated income tax return
24 for the taxable year for federal income tax purposes,
25 taxable income determined as if such corporation had
26 filed a separate return for federal income tax purposes

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

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

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

1 Subchapter S rules as in effect on July 1, 1982; and
2 (H) Partnerships. In the case of a partnership,
3 taxable income determined in accordance with Section
4 703 of the Internal Revenue Code, except that taxable
5 income shall take into account those items which are
6 required by Section 703(a)(1) to be separately stated
7 but which would be taken into account by an individual
8 in calculating his taxable income.

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

1 (f) Valuation limitation amount.

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

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

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

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

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

1 and reportable for federal income tax purposes in
2 respect of the sale, exchange or other disposition of
3 such property.

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

15 (C) The Department shall prescribe such
16 regulations as may be necessary to carry out the
17 purposes of this paragraph.

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

21 (h) Legislative intention. Except as expressly provided by
22 this Section there shall be no modifications or limitations on
23 the amounts of income, gain, loss or deduction taken into
24 account in determining gross income, adjusted gross income or

1 taxable income for federal income tax purposes for the taxable
2 year, or in the amount of such items entering into the
3 computation of base income and net income under this Act for
4 such taxable year, whether in respect of property values as of
5 August 1, 1969 or otherwise.

6 (Source: P.A. 94-776, eff. 5-19-06; 94-789, eff. 5-19-06;
7 94-1021, eff. 7-12-06; 94-1074, eff. 12-26-06; 95-23, eff.
8 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331,
9 eff. 8-21-07; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08;
10 revised 10-15-08.)

11 (35 ILCS 5/502) (from Ch. 120, par. 5-502)

12 Sec. 502. Returns and notices.

13 (a) In general. A return with respect to the taxes imposed
14 by this Act shall be made by every person for any taxable year:

15 (1) for which such person is liable for a tax imposed
16 by this Act, or

17 (2) in the case of a resident or in the case of a
18 corporation which is qualified to do business in this
19 State, for which such person is required to make a federal
20 income tax return, regardless of whether such person is
21 liable for a tax imposed by this Act. However, this
22 paragraph shall not require a resident to make a return if
23 such person has an Illinois base income of the basic amount
24 in Section 204(b) or less and is either claimed as a
25 dependent on another person's tax return under the Internal

1 Revenue Code of 1986, or is claimed as a dependent on
2 another person's tax return under this Act.

3 Notwithstanding the provisions of paragraph (1), a
4 nonresident whose Illinois income tax liability under
5 subsections (a), (b), (c), and (d) of Section 201 of this Act
6 is paid in full after taking into account the credits allowed
7 under subsection (f) of this Section or allowed under Section
8 709.5 of this Act shall not be required to file a return under
9 this subsection (a).

10 (b) Fiduciaries and receivers.

11 (1) Decedents. If an individual is deceased, any return
12 or notice required of such individual under this Act shall
13 be made by his executor, administrator, or other person
14 charged with the property of such decedent.

15 (2) Individuals under a disability. If an individual is
16 unable to make a return or notice required under this Act,
17 the return or notice required of such individual shall be
18 made by his duly authorized agent, guardian, fiduciary or
19 other person charged with the care of the person or
20 property of such individual.

21 (3) Estates and trusts. Returns or notices required of
22 an estate or a trust shall be made by the fiduciary
23 thereof.

24 (4) Receivers, trustees and assignees for
25 corporations. In a case where a receiver, trustee in
26 bankruptcy, or assignee, by order of a court of competent

1 jurisdiction, by operation of law, or otherwise, has
2 possession of or holds title to all or substantially all
3 the property or business of a corporation, whether or not
4 such property or business is being operated, such receiver,
5 trustee, or assignee shall make the returns and notices
6 required of such corporation in the same manner and form as
7 corporations are required to make such returns and notices.

8 (c) Joint returns by husband and wife.

9 (1) Except as provided in paragraph (3) ~~;~~

10 (A) if a husband and wife file a joint federal
11 income tax return for a taxable year ending before
12 December 31, 2009 they shall file a joint return under
13 this Act for such taxable year and their liabilities
14 shall be joint and several; ~~but~~

15 (B) if a husband and wife file a joint federal
16 income tax return for a taxable year ending on or after
17 December 31, 2009, they may elect to file separate
18 returns under this Act for such taxable year. The
19 election under this paragraph must be made on or before
20 the due date (including extensions) of the return and,
21 once made, shall be irrevocable. If no election is
22 timely made under this paragraph for a taxable year:

23 (i) the couple must file a joint return under
24 this Act for such taxable year,

25 (ii) their liabilities shall be joint and
26 several, and

1 (iii) any overpayment for that taxable year
2 may be withheld under Section 909 of this Act or
3 under Section 2505-275 of the Civil Administrative
4 Code of Illinois and applied against a debt of
5 either spouse without regard to the amount of the
6 overpayment attributable to the other spouse; and
7 (C) if the federal income tax liability of either
8 spouse is determined on a separate federal income tax
9 return, they shall file separate returns under this
10 Act.

11 (2) If neither spouse is required to file a federal
12 income tax return and either or both are required to file a
13 return under this Act, they may elect to file separate or
14 joint returns and pursuant to such election their
15 liabilities shall be separate or joint and several.

16 (3) If either husband or wife is a resident and the
17 other is a nonresident, they shall file separate returns in
18 this State on such forms as may be required by the
19 Department in which event their tax liabilities shall be
20 separate; but if they file a joint federal income tax
21 return for a taxable year, they may elect to determine
22 their joint net income and file a joint return for that
23 taxable year under the provisions of paragraph (1) of this
24 subsection as if both were residents and in such case,
25 their liabilities shall be joint and several.

26 (4) Innocent spouses.

1 (A) However, for tax liabilities arising and paid
2 prior to August 13, 1999, an innocent spouse shall be
3 relieved of liability for tax (including interest and
4 penalties) for any taxable year for which a joint
5 return has been made, upon submission of proof that the
6 Internal Revenue Service has made a determination
7 under Section 6013(e) of the Internal Revenue Code, for
8 the same taxable year, which determination relieved
9 the spouse from liability for federal income taxes. If
10 there is no federal income tax liability at issue for
11 the same taxable year, the Department shall rely on the
12 provisions of Section 6013(e) to determine whether the
13 person requesting innocent spouse abatement of tax,
14 penalty, and interest is entitled to that relief.

15 (B) For tax liabilities arising on and after August
16 13, 1999 or which arose prior to that date, but remain
17 unpaid as of that date, if an individual who filed a
18 joint return for any taxable year has made an election
19 under this paragraph, the individual's liability for
20 any tax shown on the joint return shall not exceed the
21 individual's separate return amount and the
22 individual's liability for any deficiency assessed for
23 that taxable year shall not exceed the portion of the
24 deficiency properly allocable to the individual. For
25 purposes of this paragraph:

26 (i) An election properly made pursuant to

1 Section 6015 of the Internal Revenue Code shall
2 constitute an election under this paragraph,
3 provided that the election shall not be effective
4 until the individual has notified the Department
5 of the election in the form and manner prescribed
6 by the Department.

7 (ii) If no election has been made under Section
8 6015, the individual may make an election under
9 this paragraph in the form and manner prescribed by
10 the Department, provided that no election may be
11 made if the Department finds that assets were
12 transferred between individuals filing a joint
13 return as part of a scheme by such individuals to
14 avoid payment of Illinois income tax and the
15 election shall not eliminate the individual's
16 liability for any portion of a deficiency
17 attributable to an error on the return of which the
18 individual had actual knowledge as of the date of
19 filing.

20 (iii) In determining the separate return
21 amount or portion of any deficiency attributable
22 to an individual, the Department shall follow the
23 provisions in subsections (c) and (d) of Section
24 6015 of the Internal Revenue Code.

25 (iv) In determining the validity of an
26 individual's election under subparagraph (ii) and

1 in determining an electing individual's separate
2 return amount or portion of any deficiency under
3 subparagraph (iii), any determination made by the
4 Secretary of the Treasury, by the United States Tax
5 Court on petition for review of a determination by
6 the Secretary of the Treasury, or on appeal from
7 the United States Tax Court under Section 6015 of
8 the Internal Revenue Code regarding criteria for
9 eligibility or under subsection (d) of Section
10 6015 of the Internal Revenue Code regarding the
11 allocation of any item of income, deduction,
12 payment, or credit between an individual making
13 the federal election and that individual's spouse
14 shall be conclusively presumed to be correct. With
15 respect to any item that is not the subject of a
16 determination by the Secretary of the Treasury or
17 the federal courts, in any proceeding involving
18 this subsection, the individual making the
19 election shall have the burden of proof with
20 respect to any item except that the Department
21 shall have the burden of proof with respect to
22 items in subdivision (ii).

23 (v) Any election made by an individual under
24 this subsection shall apply to all years for which
25 that individual and the spouse named in the
26 election have filed a joint return.

1 (vi) After receiving a notice that the federal
2 election has been made or after receiving an
3 election under subdivision (ii), the Department
4 shall take no collection action against the
5 electing individual for any liability arising from
6 a joint return covered by the election until the
7 Department has notified the electing individual in
8 writing that the election is invalid or of the
9 portion of the liability the Department has
10 allocated to the electing individual. Within 60
11 days (150 days if the individual is outside the
12 United States) after the issuance of such
13 notification, the individual may file a written
14 protest of the denial of the election or of the
15 Department's determination of the liability
16 allocated to him or her and shall be granted a
17 hearing within the Department under the provisions
18 of Section 908. If a protest is filed, the
19 Department shall take no collection action against
20 the electing individual until the decision
21 regarding the protest has become final under
22 subsection (d) of Section 908 or, if
23 administrative review of the Department's decision
24 is requested under Section 1201, until the
25 decision of the court becomes final.

26 (d) Partnerships. Every partnership having any base income

1 allocable to this State in accordance with section 305(c) shall
2 retain information concerning all items of income, gain, loss
3 and deduction; the names and addresses of all of the partners,
4 or names and addresses of members of a limited liability
5 company, or other persons who would be entitled to share in the
6 base income of the partnership if distributed; the amount of
7 the distributive share of each; and such other pertinent
8 information as the Department may by forms or regulations
9 prescribe. The partnership shall make that information
10 available to the Department when requested by the Department.

11 (e) For taxable years ending on or after December 31, 1985,
12 and before December 31, 1993, taxpayers that are corporations
13 (other than Subchapter S corporations) having the same taxable
14 year and that are members of the same unitary business group
15 may elect to be treated as one taxpayer for purposes of any
16 original return, amended return which includes the same
17 taxpayers of the unitary group which joined in the election to
18 file the original return, extension, claim for refund,
19 assessment, collection and payment and determination of the
20 group's tax liability under this Act. This subsection (e) does
21 not permit the election to be made for some, but not all, of
22 the purposes enumerated above. For taxable years ending on or
23 after December 31, 1987, corporate members (other than
24 Subchapter S corporations) of the same unitary business group
25 making this subsection (e) election are not required to have
26 the same taxable year.

1 For taxable years ending on or after December 31, 1993,
2 taxpayers that are corporations (other than Subchapter S
3 corporations) and that are members of the same unitary business
4 group shall be treated as one taxpayer for purposes of any
5 original return, amended return which includes the same
6 taxpayers of the unitary group which joined in filing the
7 original return, extension, claim for refund, assessment,
8 collection and payment and determination of the group's tax
9 liability under this Act.

10 (f) The Department may promulgate regulations to permit
11 nonresident individual partners of the same partnership,
12 nonresident Subchapter S corporation shareholders of the same
13 Subchapter S corporation, and nonresident individuals
14 transacting an insurance business in Illinois under a Lloyds
15 plan of operation, and nonresident individual members of the
16 same limited liability company that is treated as a partnership
17 under Section 1501 (a)(16) of this Act, to file composite
18 individual income tax returns reflecting the composite income
19 of such individuals allocable to Illinois and to make composite
20 individual income tax payments. The Department may by
21 regulation also permit such composite returns to include the
22 income tax owed by Illinois residents attributable to their
23 income from partnerships, Subchapter S corporations, insurance
24 businesses organized under a Lloyds plan of operation, or
25 limited liability companies that are treated as partnership
26 under Section 1501(a)(16) of this Act, in which case such

1 Illinois residents will be permitted to claim credits on their
2 individual returns for their shares of the composite tax
3 payments. This paragraph of subsection (f) applies to taxable
4 years ending on or after December 31, 1987.

5 For taxable years ending on or after December 31, 1999, the
6 Department may, by regulation, also permit any persons
7 transacting an insurance business organized under a Lloyds plan
8 of operation to file composite returns reflecting the income of
9 such persons allocable to Illinois and the tax rates applicable
10 to such persons under Section 201 and to make composite tax
11 payments and shall, by regulation, also provide that the income
12 and apportionment factors attributable to the transaction of an
13 insurance business organized under a Lloyds plan of operation
14 by any person joining in the filing of a composite return
15 shall, for purposes of allocating and apportioning income under
16 Article 3 of this Act and computing net income under Section
17 202 of this Act, be excluded from any other income and
18 apportionment factors of that person or of any unitary business
19 group, as defined in subdivision (a)(27) of Section 1501, to
20 which that person may belong.

21 For taxable years ending on or after December 31, 2008,
22 every nonresident shall be allowed a credit against his or her
23 liability under subsections (a) and (b) of Section 201 for any
24 amount of tax reported on a composite return and paid on his or
25 her behalf under this subsection (f). Residents (other than
26 persons transacting an insurance business organized under a

1 Lloyds plan of operation) may claim a credit for taxes reported
2 on a composite return and paid on their behalf under this
3 subsection (f) only as permitted by the Department by rule.

4 (f-5) For taxable years ending on or after December 31,
5 2008, the Department may adopt rules to provide that, when a
6 partnership or Subchapter S corporation has made an error in
7 determining the amount of any item of income, deduction,
8 addition, subtraction, or credit required to be reported on its
9 return that affects the liability imposed under this Act on a
10 partner or shareholder, the partnership or Subchapter S
11 corporation may report the changes in liabilities of its
12 partners or shareholders and claim a refund of the resulting
13 overpayments, or pay the resulting underpayments, on behalf of
14 its partners and shareholders.

15 (g) The Department may adopt rules to authorize the
16 electronic filing of any return required to be filed under this
17 Section.

18 (Source: P.A. 94-1074, eff. 12-26-06; 95-233, eff. 8-16-07.)

19 (35 ILCS 5/911.1) (from Ch. 120, par. 9-911.1)

20 Sec. 911.1. If the Department withholds any refund due
21 under this Act because of any other liability to the State and
22 if the return for which such refund is due is a joint return
23 for a taxable year ending before December 31, 2009, the
24 taxpayer who jointly filed such return and who is not liable to
25 the State shall be entitled to that portion of the refund

1 attributable to himself or herself.

2 (Source: P.A. 85-473.)

3 (35 ILCS 5/911.2)

4 Sec. 911.2. Refunds withheld; tax claims of other states.

5 (a) Definitions. In this Section the following terms have
6 the meanings indicated.

7 "Claimant state" means any state or the District of
8 Columbia that requests the withholding of a refund pursuant to
9 this Section and that extends a like comity for the collection
10 of taxes owed to this State.

11 "Income tax" means any amount of income tax imposed on
12 taxpayers under the laws of the State of Illinois or the
13 claimant state, including additions to tax for penalties and
14 interest.

15 "Refund" means a refund of overpaid income taxes imposed by
16 the State of Illinois or the claimant state.

17 "Tax officer" means a unit or official of the claimant
18 state, or the duly authorized agent of that unit or official,
19 charged with the imposition, assessment, or collection of state
20 income taxes.

21 "Taxpayer" means any individual person identified by a
22 claimant state under this Section as owing taxes to that
23 claimant state, and in the case of a refund arising from the
24 filing of a joint return, the taxpayer's spouse.

25 (b) In general. Except as provided in subsection (c) of

1 this Section, a tax officer may:

2 (1) certify to the Director the existence of a
3 taxpayer's delinquent income tax liability; and

4 (2) request the Director to withhold any refund to
5 which the taxpayer is entitled.

6 (c) Comity. A tax officer may not certify or request the
7 Director to withhold a refund unless the laws of the claimant
8 state:

9 (1) allow the Director to certify an income tax
10 liability;

11 (2) allow the Director to request the tax officer to
12 withhold the taxpayer's tax refund; and

13 (3) provide for the payment of the refund to the State
14 of Illinois.

15 (d) Certification. A certification by a tax officer to the
16 Director shall include:

17 (1) the full name and address of the taxpayer and any
18 other names known to be used by the taxpayer;

19 (2) the social security number or federal tax
20 identification number of the taxpayer;

21 (3) the amount of the income tax liability; and

22 (4) a statement that all administrative and judicial
23 remedies and appeals have been exhausted or have lapsed and
24 that the assessment of tax, interest, and penalty has
25 become final.

26 (e) Notification. As to any taxpayer due a refund, the

1 Director shall:

2 (1) notify the taxpayer that a claimant state has
3 provided certification of the existence of an income tax
4 liability;

5 (2) inform the taxpayer of the tax liability certified,
6 including a detailed statement for each taxable year
7 showing tax, interest, and penalty;

8 (3) inform the taxpayer that failure to file a protest
9 in accordance with subsection (f) of this Section shall
10 constitute a waiver of any demand against this State for
11 the amount certified;

12 (3.5) inform the taxpayer that the refund has been
13 withheld and that the tax liability has been paid to the
14 claimant state as provided in subsection (i) of this
15 Section;

16 (4) provide the taxpayer with notice of an opportunity
17 to request a hearing to challenge the certification; and

18 (5) inform the taxpayer that the hearing may be
19 requested (i) pursuant to Section 910 of this Act, or (ii)
20 with the tax officer, in accordance with the laws of the
21 claimant state.

22 (f) Protest of withholding. A taxpayer may protest the
23 withholding of a refund pursuant to Section 910 of this Act
24 (except that the protest shall be filed within 30 days after
25 the date of the Director's notice of certification pursuant to
26 subsection (e) of this Section).

1 (g) Certification as prima facie evidence. If the taxpayer
2 requests a hearing pursuant to Section 910 of this Act, the
3 certification of the tax officer shall be prima facie evidence
4 of the correctness of the taxpayer's delinquent income tax
5 liability to the certifying state.

6 (h) Rights of spouses to refunds from joint returns. If a
7 certification is based upon the tax debt of only one taxpayer
8 and if the refund is based upon a joint personal income tax
9 return for a taxable year ending before December 31, 2009, the
10 nondebtor spouse shall have the right to:

11 (1) notification, as provided in subsection (e) of this
12 Section;

13 (2) protest, as to the withholding of such spouse's
14 share of the refund, as provided in subsection (f) of this
15 Section; and

16 (3) payment of his or her share of the refund, provided
17 the amount of the overpayment refunded to the spouse shall
18 not exceed the amount of the joint overpayment.

19 (i) Withholding and payment of refund. Upon receipt of a
20 request for withholding in accordance with subsection (b) of
21 this Section, the Director shall:

22 (1) withhold any refund that is certified by the tax
23 officer;

24 (2) pay to the claimant state the entire refund or the
25 amount certified, whichever is less;

26 (3) pay any refund in excess of the amount certified to

1 the taxpayer; and

2 (4) if a refund is less than the amount certified,
3 withhold amounts from subsequent refunds due the taxpayer,
4 if the laws of the claimant state provide that the claimant
5 state shall withhold subsequent refunds of taxpayers
6 certified to that state by the Director.

7 (j) Determination that withholding cannot be made. After
8 receiving a certification from a tax officer, the Director
9 shall notify the claimant state if the Director determines that
10 a withholding cannot be made.

11 (k) Director's authority. The Director shall have the
12 authority to enter into agreements with the tax officers of
13 claimant state relating to:

14 (1) procedures and methods to be employed by a claimant
15 state with respect to the operation of this Section;

16 (2) safeguards against the disclosure or inappropriate
17 use of any information obtained or maintained pursuant to
18 this Section that identifies, directly or indirectly, a
19 particular taxpayer;

20 (3) a minimum tax debt, amounts below which, in light
21 of administrative expenses and efficiency, shall, in the
22 Director's discretion, not be subject to the withholding
23 procedures set forth in this Section.

24 (l) Remedy not exclusive. The collection procedures
25 prescribed by this Section are in addition to, and not in
26 substitution for, any other remedy available by law.

1 (Source: P.A. 92-492, eff. 1-1-02; 92-826, eff. 8-21-02.)

2 Section 15. The Use Tax Act is amended by changing Section
3 10 as follows:

4 (35 ILCS 105/10) (from Ch. 120, par. 439.10)

5 Sec. 10. Except as to motor vehicles, aircraft, watercraft,
6 and trailers, and except as to cigarettes as defined in the
7 Cigarette Use Tax, when tangible personal property is purchased
8 from a retailer for use in this State by a purchaser who did
9 not pay the tax imposed by this Act to the retailer, and who
10 does not file returns with the Department as a retailer under
11 Section 9 of this Act, such purchaser (by the last day of the
12 month following the calendar month in which such purchaser
13 makes any payment upon the selling price of such property)
14 shall, except as provided in this Section, file a return with
15 the Department and pay the tax upon that portion of the selling
16 price so paid by the purchaser during the preceding calendar
17 month. When tangible personal property, including but not
18 limited to motor vehicles and aircraft, is purchased by a
19 lessor, under a lease for one year or longer, executed or in
20 effect at the time of purchase to an interstate carrier for
21 hire, who did not pay the tax imposed by this Act to the
22 retailer, such lessor (by the last day of the month following
23 the calendar month in which such property reverts to the use of
24 such lessor) shall file a return with the Department and pay

1 the tax upon the fair market value of such property on the date
2 of such reversion. However, in determining the fair market
3 value at the time of reversion, the fair market value of such
4 property shall not exceed the original purchase price of the
5 property that was paid by the lessor at the time of purchase.
6 Such return shall be filed on a form prescribed by the
7 Department and shall contain such information as the Department
8 may reasonably require. Such return and payment from the
9 purchaser shall be submitted to the Department sooner than the
10 last day of the month after the month in which the purchase is
11 made to the extent that that may be necessary in order to
12 secure the title to a motor vehicle or the certificate of
13 registration for an aircraft. However, except as to motor
14 vehicles and aircraft, and except as to cigarettes as defined
15 in the Cigarette Use Tax Act, if the purchaser's annual use tax
16 liability does not exceed \$600, the purchaser may file the
17 return on an annual basis on or before April 15th of the year
18 following the year use tax liability was incurred.

19 If cigarettes, as defined in the Cigarette Use Tax Act, are
20 purchased from a retailer for use in this State by a purchaser
21 who did not pay the tax imposed by this Act to the retailer,
22 and who does not file returns with the Department as a retailer
23 under Section 9 of this Act, such purchaser must, within 30
24 days after acquiring the cigarettes, file a return with the
25 Department and pay the tax upon that portion of the selling
26 price so paid by the purchaser for the cigarettes.

1 In addition with respect to motor vehicles, aircraft,
2 watercraft, and trailers, a purchaser of such tangible personal
3 property for use in this State, who purchases such tangible
4 personal property from an out-of-state retailer, shall file
5 with the Department, upon a form to be prescribed and supplied
6 by the Department, a return for each such item of tangible
7 personal property purchased, except that if, in the same
8 transaction, (i) a purchaser of motor vehicles, aircraft,
9 watercraft, or trailers who is a retailer of motor vehicles,
10 aircraft, watercraft, or trailers purchases more than one motor
11 vehicle, aircraft, watercraft, or trailer for the purpose of
12 resale or (ii) a purchaser of motor vehicles, aircraft,
13 watercraft, or trailers purchases more than one motor vehicle,
14 aircraft, watercraft, or trailer for use as qualifying rolling
15 stock as provided in Section 3-55 of this Act, then the
16 purchaser may report the purchase of all motor vehicles,
17 aircraft, watercraft, or trailers involved in that transaction
18 to the Department on a single return prescribed by the
19 Department. Such return in the case of motor vehicles and
20 aircraft must show the name and address of the seller, the
21 name, address of purchaser, the amount of the selling price
22 including the amount allowed by the retailer for traded in
23 property, if any; the amount allowed by the retailer for the
24 traded-in tangible personal property, if any, to the extent to
25 which Section 2 of this Act allows an exemption for the value
26 of traded-in property; the balance payable after deducting such

1 trade-in allowance from the total selling price; the amount of
2 tax due from the purchaser with respect to such transaction;
3 the amount of tax collected from the purchaser by the retailer
4 on such transaction (or satisfactory evidence that such tax is
5 not due in that particular instance if that is claimed to be
6 the fact); the place and date of the sale, a sufficient
7 identification of the property sold, and such other information
8 as the Department may reasonably require.

9 Such return shall be filed not later than 30 days after
10 such motor vehicle or aircraft is brought into this State for
11 use.

12 For purposes of this Section, "watercraft" means a Class 2,
13 Class 3, or Class 4 watercraft as defined in Section 3-2 of the
14 Boat Registration and Safety Act, a personal watercraft, or any
15 boat equipped with an inboard motor.

16 The return and tax remittance or proof of exemption from
17 the tax that is imposed by this Act may be transmitted to the
18 Department by way of the State agency with which, or State
19 officer with whom, the tangible personal property must be
20 titled or registered (if titling or registration is required)
21 if the Department and such agency or State officer determine
22 that this procedure will expedite the processing of
23 applications for title or registration.

24 With each such return, the purchaser shall remit the proper
25 amount of tax due (or shall submit satisfactory evidence that
26 the sale is not taxable if that is the case), to the Department

1 or its agents, whereupon the Department shall issue, in the
2 purchaser's name, a tax receipt (or a certificate of exemption
3 if the Department is satisfied that the particular sale is tax
4 exempt) which such purchaser may submit to the agency with
5 which, or State officer with whom, he must title or register
6 the tangible personal property that is involved (if titling or
7 registration is required) in support of such purchaser's
8 application for an Illinois certificate or other evidence of
9 title or registration to such tangible personal property.

10 When a purchaser pays a tax imposed by this Act directly to
11 the Department, the Department (upon request therefor from such
12 purchaser) shall issue an appropriate receipt to such purchaser
13 showing that he has paid such tax to the Department. Such
14 receipt shall be sufficient to relieve the purchaser from
15 further liability for the tax to which such receipt may refer.

16 A user who is liable to pay use tax directly to the
17 Department only occasionally and not on a frequently recurring
18 basis, and who is not required to file returns with the
19 Department as a retailer under Section 9 of this Act, or under
20 the "Retailers' Occupation Tax Act", or as a registrant with
21 the Department under the "Service Occupation Tax Act" or the
22 "Service Use Tax Act", need not register with the Department.
23 However, if such a user has a frequently recurring direct use
24 tax liability to pay to the Department, such user shall be
25 required to register with the Department on forms prescribed by
26 the Department and to obtain and display a certificate of

1 registration from the Department. In that event, all of the
2 provisions of Section 9 of this Act concerning the filing of
3 regular monthly, quarterly or annual tax returns and all of the
4 provisions of Section 2a of the "Retailers' Occupation Tax Act"
5 concerning the requirements for registrants to post bond or
6 other security with the Department, as the provisions of such
7 sections now exist or may hereafter be amended, shall apply to
8 such users to the same extent as if such provisions were
9 included herein.

10 (Source: P.A. 91-541, eff. 8-13-99; 91-901, eff. 1-1-01.)

11 Section 20. The Environmental Protection Act is amended by
12 changing Section 55.8 and 55.10 as follows:

13 (415 ILCS 5/55.8) (from Ch. 111 1/2, par. 1055.8)

14 Sec. 55.8. Tire retailers.

15 (a) Any person selling new or used tires at retail or
16 offering new or used tires for retail sale in this State shall:

17 (1) beginning on June 20, 2003 (the effective date of
18 Public Act 93-32), collect from retail customers a fee of
19 \$2 per new or used tire sold and delivered in this State,
20 to be paid to the Department of Revenue and deposited into
21 the Used Tire Management Fund, less a collection allowance
22 of 10 cents per tire to be retained by the retail seller
23 and a collection allowance of 10 cents per tire to be
24 retained by the Department of Revenue and paid into the

1 General Revenue Fund; the collection allowance for retail
2 sellers, however, shall be allowed only if the return is
3 filed timely and only for the amount that is paid timely in
4 accordance with this Title XIV;

5 (1.5) beginning on July 1, 2003, collect from retail
6 customers an additional 50 cents per new or used tire sold
7 and delivered in this State; the money collected from this
8 fee shall be deposited into the Emergency Public Health
9 Fund;

10 (2) accept for recycling used tires from customers, at
11 the point of transfer, in a quantity equal to the number of
12 new tires purchased; and

13 (3) post in a conspicuous place a written notice at
14 least 8.5 by 11 inches in size that includes the universal
15 recycling symbol and the following statements: "DO NOT put
16 used tires in the trash."; "Recycle your used tires."; and
17 "State law requires us to accept used tires for recycling,
18 in exchange for new tires purchased."

19 (b) A person who accepts used tires for recycling under
20 subsection (a) shall not allow the tires to accumulate for
21 periods of more than 90 days.

22 (c) The requirements of subsection (a) of this Section do
23 not apply to mail order sales nor shall the retail sale of a
24 motor vehicle be considered to be the sale of tires at retail
25 or offering of tires for retail sale. Instead of filing
26 returns, retailers of tires may remit the tire user fee of

1 \$1.00 per tire to their suppliers of tires if the supplier of
2 tires is a registered retailer of tires and agrees or otherwise
3 arranges to collect and remit the tire fee to the Department of
4 Revenue, notwithstanding the fact that the sale of the tire is
5 a sale for resale and not a sale at retail. A tire supplier who
6 enters into such an arrangement with a tire retailer shall be
7 liable for the tax on all tires sold to the tire retailer and
8 must (i) provide the tire retailer with a receipt that
9 separately reflects the tire tax collected from the retailer on
10 each transaction and (ii) accept used tires for recycling from
11 the retailer's customers. The tire supplier shall be entitled
12 to the collection allowance of 10 cents per tire.

13 The retailer of the tires must maintain in its books and
14 records evidence that the appropriate fee was paid to the tire
15 supplier and that the tire supplier has agreed to remit the fee
16 to the Department of Revenue for each tire sold by the
17 retailer. Otherwise, the tire retailer shall be directly liable
18 for the fee on all tires sold at retail. Tire retailers paying
19 the fee to their suppliers are not entitled to the collection
20 allowance of 10 cents per tire.

21 (d) The requirements of subsection (a) of this Section
22 shall apply exclusively to tires to be used for vehicles
23 defined in Section 1-217 of the Illinois Vehicle Code, aircraft
24 tires, special mobile equipment, and implements of husbandry.

25 (e) The requirements of paragraph (1) of subsection (a) do
26 not apply to the sale of reprocessed tires. For purposes of

1 this Section, "reprocessed tire" means a used tire that has
2 been recapped, retreaded, or regrooved and that has not been
3 placed on a vehicle wheel rim.

4 (Source: P.A. 95-49, eff. 8-10-07; 95-331, eff. 8-21-07;
5 95-876, eff. 8-21-08.)

6 (415 ILCS 5/55.10) (from Ch. 111 1/2, par. 1055.10)

7 Sec. 55.10. Tax returns by retailer.

8 (a) Except as otherwise provided in this Section, for
9 returns due on or before January 31, 2010 each ~~Each~~ retailer of
10 tires maintaining a place of business in this State shall make
11 a return to the Department of Revenue on a quarter annual
12 basis, with the return for January, February and March of a
13 given year being due by April 30 of that year; with the return
14 for April, May and June of a given year being due by July 31 of
15 that year; with the return for July, August and September of a
16 given year being due by October 31 of that year; and with the
17 return for October, November and December of a given year being
18 due by January 31 of the following year.

19 For returns due after January 31, 2010, each retailer of
20 tires maintaining a place of business in this State shall make
21 a return to the Department of Revenue on a quarter annual
22 basis, with the return for January, February, and March of a
23 given year being due by April 20 of that year; with the return
24 for April, May, and June of a given year being due by July 20 of
25 that year; with the return for July, August, and September of a

1 given year being due by October 20 of that year; and with the
2 return for October, November, and December of a given year
3 being due by January 20 of the following year.

4 Notwithstanding any other provision of this Section to the
5 contrary, the return for October, November, and December of
6 2009 is due by February 20, 2010.

7 (b) Each return made to the Department of Revenue shall
8 state:

9 (1) the name of the retailer;

10 (2) the address of the retailer's principal place of
11 business, and the address of the principal place of
12 business (if that is a different address) from which the
13 retailer engages in the business of making retail sales of
14 tires;

15 (3) total number of tires sold at retail for the
16 preceding calendar quarter;

17 (4) the amount of tax due; and

18 (5) such other reasonable information as the
19 Department of Revenue may require.

20 Notwithstanding any other provision of this Act concerning
21 the time within which a retailer may file his return, in the
22 case of any retailer who ceases to engage in the retail sale of
23 tires, the retailer shall file a final return under this Act
24 with the Department of Revenue not more than one month after
25 discontinuing that business.

26 (Source: P.A. 87-727.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.