

# SB2070



## 96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2070

Introduced 2/20/2009, by Sen. Dan Kotowski

### SYNOPSIS AS INTRODUCED:

35 ILCS 5/203

from Ch. 120, par. 2-203

Amends the Illinois Income Tax Act. Makes a technical change in a Section concerning base income.

LRB096 11391 HLH 21855 b

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 Illinois Income Tax Act is amended by  
5 changing Section 203 as follows:

6 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

7 Sec. 203. Base income defined.

8 (a) Individuals.

9 (1) In general. In the ~~the~~ case of an individual, base  
10 income means an amount equal to the taxpayer's adjusted  
11 gross income for the taxable year as modified by paragraph  
12 (2).

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

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

23 (B) An amount equal to the amount of tax imposed by

1           this Act to the extent deducted from gross income in  
2           the computation of adjusted gross income for the  
3           taxable year;

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

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

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

1 20 of the Medical Care Savings Account Act of 2000;

2 (D-10) For taxable years ending after December 31,  
3 1997, an amount equal to any eligible remediation costs  
4 that the individual deducted in computing adjusted  
5 gross income and for which the individual claims a  
6 credit under subsection (l) of Section 201;

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

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

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

26 The taxpayer is required to make the addition

1 modification under this subparagraph only once with  
2 respect to any one piece of property;

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

1 Code) with respect to the stock of the same person to  
2 whom the interest was paid, accrued, or incurred.

3 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) the taxpayer can establish, based on  
26 clear and convincing evidence, that the interest

1           paid, accrued, or incurred relates to a contract or  
2           agreement entered into at arm's-length rates and  
3           terms and the principal purpose for the payment is  
4           not federal or Illinois tax avoidance; or

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

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

21          (D-18) An amount equal to the amount of intangible  
22          expenses and costs otherwise allowed as a deduction in  
23          computing base income, and that were paid, accrued, or  
24          incurred, directly or indirectly, (i) for taxable  
25          years ending on or after December 31, 2004, to a  
26          foreign person who would be a member of the same

1 unitary business group but for the fact that the  
2 foreign person's business activity outside the United  
3 States is 80% or more of that person's total business  
4 activity and (ii) for taxable years ending on or after  
5 December 31, 2008, to a person who would be a member of  
6 the same unitary business group but for the fact that  
7 the person is prohibited under Section 1501(a)(27)  
8 from being included in the unitary business group  
9 because he or she is ordinarily required to apportion  
10 business income under different subsections of Section  
11 304. The addition modification required by this  
12 subparagraph shall be reduced to the extent that  
13 dividends were included in base income of the unitary  
14 group for the same taxable year and received by the  
15 taxpayer or by a member of the taxpayer's unitary  
16 business group (including amounts included in gross  
17 income under Sections 951 through 964 of the Internal  
18 Revenue Code and amounts included in gross income under  
19 Section 78 of the Internal Revenue Code) with respect  
20 to the stock of the same person to whom the intangible  
21 expenses and costs were directly or indirectly paid,  
22 incurred, or accrued. The preceding sentence does not  
23 apply to the extent that the same dividends caused a  
24 reduction to the addition modification required under  
25 Section 203(a)(2)(D-17) of this Act. As used in this  
26 subparagraph, the term "intangible expenses and costs"



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

14 This paragraph shall not apply to the following:

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

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

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

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

12          (iii) any item of intangible expense or cost  
13          paid, accrued, or incurred, directly or  
14          indirectly, from a transaction with a person if the  
15          taxpayer establishes by clear and convincing  
16          evidence, that the adjustments are unreasonable;  
17          or if the taxpayer and the Director agree in  
18          writing to the application or use of an alternative  
19          method 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           (D-19) For taxable years ending on or after  
4           December 31, 2008, an amount equal to the amount of  
5           insurance premium expenses and costs otherwise allowed  
6           as a deduction in computing base income, and that were  
7           paid, accrued, or incurred, directly or indirectly, to  
8           a person who would be a member of the same unitary  
9           business group but for the fact that the person is  
10          prohibited under Section 1501(a)(27) from being  
11          included in the unitary business group because he or  
12          she is ordinarily required to apportion business  
13          income under different subsections of Section 304. The  
14          addition modification required by this subparagraph  
15          shall be reduced to the extent that dividends were  
16          included in base income of the unitary group for the  
17          same taxable year and received by the taxpayer or by a  
18          member of the taxpayer's unitary business group  
19          (including amounts included in gross income under  
20          Sections 951 through 964 of the Internal Revenue Code  
21          and amounts included in gross income under Section 78  
22          of the Internal Revenue Code) with respect to the stock  
23          of the same person to whom the premiums and costs were  
24          directly or indirectly paid, incurred, or accrued. The  
25          preceding sentence does not apply to the extent that  
26          the same dividends caused a reduction to the addition

1 modification required under Section 203(a)(2)(D-17) or  
2 Section 203(a)(2)(D-18) of this Act.

3 (D-20) For taxable years beginning on or after  
4 January 1, 2002 and ending on or before December 31,  
5 2006, in the case of a distribution from a qualified  
6 tuition program under Section 529 of the Internal  
7 Revenue Code, other than (i) a distribution from a  
8 College Savings Pool created under Section 16.5 of the  
9 State Treasurer Act or (ii) a distribution from the  
10 Illinois Prepaid Tuition Trust Fund, an amount equal to  
11 the amount excluded from gross income under Section  
12 529(c)(3)(B). For taxable years beginning on or after  
13 January 1, 2007, in the case of a distribution from a  
14 qualified tuition program under Section 529 of the  
15 Internal Revenue Code, other than (i) a distribution  
16 from a College Savings Pool created under Section 16.5  
17 of the State Treasurer Act, (ii) a distribution from  
18 the Illinois Prepaid Tuition Trust Fund, or (iii) a  
19 distribution from a qualified tuition program under  
20 Section 529 of the Internal Revenue Code that (I)  
21 adopts and determines that its offering materials  
22 comply with the College Savings Plans Network's  
23 disclosure principles and (II) has made reasonable  
24 efforts to inform in-state residents of the existence  
25 of in-state qualified tuition programs by informing  
26 Illinois residents directly and, where applicable, to

1 inform financial intermediaries distributing the  
2 program to inform in-state residents of the existence  
3 of in-state qualified tuition programs at least  
4 annually, an amount equal to the amount excluded from  
5 gross income under Section 529(c)(3)(B).

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

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

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

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

1 being a member of the Illinois National Guard or,  
2 beginning with taxable years ending on or after  
3 December 31, 2007, the National Guard of any other  
4 state. The provisions of this amendatory Act of the  
5 92nd General Assembly are exempt from the provisions of  
6 Section 250;

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

18 (G) The valuation limitation amount;

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

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

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

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

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

25           (M) With the exception of any amounts subtracted  
26 under subparagraph (N), an amount equal to the sum of



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

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

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

24 (P) An amount equal to the amount of the deduction  
25 used to compute the federal income tax credit for  
26 restoration of substantial amounts held under claim of

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

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

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

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

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

25 (U) For one taxable year beginning on or after  
26 January 1, 1994, an amount equal to the total amount of

1 tax imposed and paid under subsections (a) and (b) of  
2 Section 201 of this Act on grant amounts received by  
3 the taxpayer under the Nursing Home Grant Assistance  
4 Act during the taxpayer's taxable years 1992 and 1993;

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

1 long-term care insurance premiums paid by the taxpayer  
2 times a number that represents the fractional  
3 percentage of eligible medical expenses under Section  
4 213 of the Internal Revenue Code of 1986 not actually  
5 deducted on the taxpayer's federal income tax return;

6 (W) For taxable years beginning on or after January  
7 1, 1998, all amounts included in the taxpayer's federal  
8 gross income in the taxable year from amounts converted  
9 from a regular IRA to a Roth IRA. This paragraph is  
10 exempt from the provisions of Section 250;

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

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

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

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

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

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

23 (2) for taxable years ending on or before  
24 December 31, 2005, "x" equals "y" multiplied by 30  
25 and then divided by 70 (or "y" multiplied by  
26 0.429); and

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

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

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

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

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

25                  If the taxpayer continues to own property through  
26                  the last day of the last tax year for which the

1 taxpayer may claim a depreciation deduction for  
2 federal income tax purposes and for which the taxpayer  
3 was required in any taxable year to make an addition  
4 modification under subparagraph (D-15), then an amount  
5 equal to that addition modification.

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

9 This subparagraph (AA) is exempt from the  
10 provisions of Section 250;

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

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



1           203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or  
2           203(d)(2)(D-8), but not to exceed the amount of that  
3           addition modification. This subparagraph (CC) is  
4           exempt from the provisions of Section 250;

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

25          (EF) An amount equal to the income from intangible  
26          property taken into account for the taxable year (net

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

20 (b) Corporations.

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

24 (2) Modifications. The taxable income referred to in  
25 paragraph (1) shall be modified by adding thereto the sum

1 of the following amounts:

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

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

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

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

24 (E) For taxable years in which a net operating loss  
25 carryback or carryforward from a taxable year ending  
26 prior to December 31, 1986 is an element of taxable

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

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

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

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

1           subparagraph (E) for each such taxable year;

2           (E-5) For taxable years ending after December 31,  
3           1997, an amount equal to any eligible remediation costs  
4           that the corporation deducted in computing adjusted  
5           gross income and for which the corporation claims a  
6           credit under subsection (l) of Section 201;

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

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

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

26          The taxpayer is required to make the addition

1 modification under this subparagraph only once with  
2 respect to any one piece of property;

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

1 Internal Revenue Code) with respect to the stock of the  
2 same person to whom the interest was paid, accrued, or  
3 incurred.

4 This paragraph shall not apply to the following:

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

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

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

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

26 (iii) the taxpayer can establish, based on

1 clear and convincing evidence, that the interest  
2 paid, accrued, or incurred relates to a contract or  
3 agreement entered into at arm's-length rates and  
4 terms and the principal purpose for the payment is  
5 not federal or Illinois tax avoidance; or

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

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

22 (E-13) An amount equal to the amount of intangible  
23 expenses and costs otherwise allowed as a deduction in  
24 computing base income, and that were paid, accrued, or  
25 incurred, directly or indirectly, (i) for taxable  
26 years ending on or after December 31, 2004, to a



1 foreign person who would be a member of the same  
2 unitary business group but for the fact that the  
3 foreign person's business activity outside the United  
4 States is 80% or more of that person's total business  
5 activity and (ii) for taxable years ending on or after  
6 December 31, 2008, to a person who would be a member of  
7 the same unitary business group but for the fact that  
8 the person is prohibited under Section 1501(a)(27)  
9 from being included in the unitary business group  
10 because he or she is ordinarily required to apportion  
11 business income under different subsections of Section  
12 304. The addition modification required by this  
13 subparagraph shall be reduced to the extent that  
14 dividends were included in base income of the unitary  
15 group for the same taxable year and received by the  
16 taxpayer or by a member of the taxpayer's unitary  
17 business group (including amounts included in gross  
18 income pursuant to Sections 951 through 964 of the  
19 Internal Revenue Code and amounts included in gross  
20 income under Section 78 of the Internal Revenue Code)  
21 with respect to the stock of the same person to whom  
22 the intangible expenses and costs were directly or  
23 indirectly paid, incurred, or accrued. The preceding  
24 sentence shall not apply to the extent that the same  
25 dividends caused a reduction to the addition  
26 modification required under Section 203(b)(2)(E-12) of

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

15                 This paragraph shall not apply to the following:

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

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

1 following:

2 (a) the person during the same taxable  
3 year paid, accrued, or incurred, the  
4 intangible expense or cost to a person that is  
5 not a related member, and

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

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

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

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

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

1 the same dividends caused a reduction to the addition  
2 modification required under Section 203(b) (2) (E-12) or  
3 Section 203(b) (2) (E-13) of this Act;

4 (E-15) For taxable years beginning after December  
5 31, 2008, any deduction for dividends paid by a captive  
6 real estate investment trust that is allowed to a real  
7 estate investment trust under Section 857(b) (2) (B) of  
8 the Internal Revenue Code for dividends paid;

9 and by deducting from the total so obtained the sum of the  
10 following amounts:

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

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

16 (H) In the case of a regulated investment company,  
17 an amount equal to the amount of exempt interest  
18 dividends as defined in subsection (b) (5) of Section  
19 852 of the Internal Revenue Code, paid to shareholders  
20 for the taxable year;

21 (I) With the exception of any amounts subtracted  
22 under subparagraph (J), an amount equal to the sum of  
23 all amounts disallowed as deductions by (i) Sections  
24 171(a) (2), and 265(a) (2) and amounts disallowed as  
25 interest expense by Section 291(a) (3) of the Internal  
26 Revenue Code, as now or hereafter amended, and all

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

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

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

1 provisions of Section 250;

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

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

1 Zone or the River Edge Redevelopment Zone. The  
2 subtraction modification available to taxpayer in any  
3 year under this subsection shall be that portion of the  
4 total interest paid by the borrower with respect to  
5 such loan attributable to the eligible property as  
6 calculated under the previous sentence. This  
7 subparagraph (M) is exempt from the provisions of  
8 Section 250;

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



1 (2) of this subsection shall be eligible for the  
2 deduction provided under this subparagraph (M-1). The  
3 subtraction modification available to taxpayers in any  
4 year under this subsection shall be that portion of the  
5 total interest paid by the borrower with respect to  
6 such loan attributable to the eligible property as  
7 calculated under the previous sentence;

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

19 (O) An amount equal to: (i) 85% for taxable years  
20 ending on or before December 31, 1992, or, a percentage  
21 equal to the percentage allowable under Section  
22 243(a)(1) of the Internal Revenue Code of 1986 for  
23 taxable years ending after December 31, 1992, of the  
24 amount by which dividends included in taxable income  
25 and received from a corporation that is not created or  
26 organized under the laws of the United States or any

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

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

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

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

22           (S) For taxable years ending on or after December  
23 31, 1997, in the case of a Subchapter S corporation, an  
24 amount equal to all amounts of income allocable to a  
25 shareholder subject to the Personal Property Tax  
26 Replacement Income Tax imposed by subsections (c) and

1 (d) of Section 201 of this Act, including amounts  
2 allocable to organizations exempt from federal income  
3 tax by reason of Section 501(a) of the Internal Revenue  
4 Code. This subparagraph (S) is exempt from the  
5 provisions of Section 250;

6 (T) 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 (T) is exempt from the provisions of  
15 Section 250;

16 (U) If the taxpayer sells, transfers, abandons, or  
17 otherwise disposes of property for which the taxpayer  
18 was required in any taxable year to make an addition  
19 modification under subparagraph (E-10), then an amount  
20 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 (E-10), 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 (U) is exempt from the  
6 provisions of Section 250;

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

1 under Section 203(a)(2)(D-19), Section  
2 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section  
3 203(d)(2)(D-9), but not to exceed the amount of that  
4 addition modification. This subparagraph (V) is exempt  
5 from the provisions of Section 250;

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

26 (X) An amount equal to the income from intangible

1 property taken into account for the taxable year (net  
2 of the 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 that 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(b)(2)(E-13) for  
17 intangible expenses and costs paid, accrued, or  
18 incurred, directly or indirectly, to the same foreign  
19 person. This subparagraph (X) is exempt from the  
20 provisions of Section 250. ~~(Y)~~

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

25 (c) Trusts and estates.



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

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

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

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

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

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

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

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

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

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

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

1 independently under the preceding provisions of this  
2 subparagraph (E) for each such taxable year;

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

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

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

18 (G-10) 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; and

23 (G-11) 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 (G-10), then

1 an amount equal to the aggregate amount of the  
2 deductions taken in all taxable years under  
3 subparagraph (R) 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 (R), 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 (G-12) 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 that the foreign person's business activity  
21 outside 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;

7           (G-13) 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(c)(2)(G-12) of  
12 this Act. As used in this subparagraph, the term  
13 "intangible expenses and costs" includes: (1)  
14 expenses, losses, and costs for or related to the  
15 direct or indirect acquisition, use, maintenance or  
16 management, ownership, sale, exchange, or any other  
17 disposition of intangible property; (2) losses  
18 incurred, directly or indirectly, from factoring  
19 transactions or discounting transactions; (3) royalty,  
20 patent, technical, and copyright fees; (4) licensing  
21 fees; and (5) other similar expenses and costs. For  
22 purposes of this subparagraph, "intangible property"  
23 includes patents, patent applications, trade names,  
24 trademarks, service marks, copyrights, mask works,  
25 trade secrets, and 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 (G-14) For taxable years ending on or after  
16 December 31, 2008, an amount equal to the amount of  
17 insurance premium expenses and costs otherwise allowed  
18 as a deduction in computing base income, and that were  
19 paid, accrued, or incurred, directly or indirectly, to  
20 a 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(c) (2) (G-12) or  
14 Section 203(c) (2) (G-13) of this Act.

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

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

1 thereto;

2 (I) The valuation limitation amount;

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

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

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

1 the Internal Revenue Code; the provisions of this  
2 subparagraph are exempt from the provisions of Section  
3 250;

4 (M) An amount equal to those dividends included in  
5 such total which were paid by a corporation which  
6 conducts business operations in an Enterprise Zone or  
7 zones created under the Illinois Enterprise Zone Act or  
8 a River Edge Redevelopment Zone or zones created under  
9 the River Edge Redevelopment Zone Act and conducts  
10 substantially all of its operations in an Enterprise  
11 Zone or Zones or a River Edge Redevelopment Zone or  
12 zones. This subparagraph (M) is exempt from the  
13 provisions of Section 250;

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

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

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

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

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

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

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

1 and then divided by 70 (or "y" multiplied by  
2 0.429); and

3 (3) for taxable years ending after December  
4 31, 2005:

5 (i) for property on which a bonus  
6 depreciation deduction of 30% of the adjusted  
7 basis was taken, "x" equals "y" multiplied by  
8 30 and then divided by 70 (or "y" multiplied by  
9 0.429); and

10 (ii) for property on which a bonus  
11 depreciation deduction of 50% of the adjusted  
12 basis was taken, "x" equals "y" multiplied by  
13 1.0.

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

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



1           If the taxpayer continues to own property through  
2           the last day of the last tax year for which the  
3           taxpayer may claim a depreciation deduction for  
4           federal income tax purposes and for which the taxpayer  
5           was required in any taxable year to make an addition  
6           modification under subparagraph (G-10), then an amount  
7           equal to that addition modification.

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

11          This subparagraph (S) is exempt from the  
12          provisions of Section 250;

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

1           203(d) (2) (D-8), but not to exceed the amount of such  
2           addition modification. This subparagraph (T) is exempt  
3           from the provisions of Section 250;

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

24          (V) An amount equal to the income from intangible  
25          property taken into account for the taxable year (net  
26          of the deductions allocable thereto) with respect to

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

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

1 (d) Partnerships.

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

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

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

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

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

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

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

1           (D-6) If the taxpayer sells, transfers, abandons,  
2 or otherwise disposes of property for which the  
3 taxpayer was required in any taxable year to make an  
4 addition modification under subparagraph (D-5), then  
5 an amount equal to the aggregate amount of the  
6 deductions taken in all taxable years under  
7 subparagraph (O) with respect to that property.

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

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

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

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

19 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

1 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; and

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



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

1 patent applications, trade names, trademarks, service  
2 marks, copyrights, mask works, trade secrets, and  
3 similar types of intangible assets;

4 This paragraph shall not apply to the following:

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

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

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

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

1                   or

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

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

19                   (D-9) For taxable years ending on or after December  
20                   31, 2008, an amount equal to the amount of insurance  
21                   premium expenses and costs otherwise allowed as a  
22                   deduction in computing base income, and that were paid,  
23                   accrued, or incurred, directly or indirectly, to a  
24                   person who would be a member of the same unitary  
25                   business group but for the fact that the person is  
26                   prohibited under Section 1501(a)(27) from being

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

19 and by deducting from the total so obtained the following  
20 amounts:

21 (E) The valuation limitation amount;

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

25 (G) An amount equal to all amounts included in  
26 taxable income as modified by subparagraphs (A), (B),

1 (C) and (D) which are exempt from taxation by this  
2 State either by reason of its statutes or Constitution  
3 or by reason of the Constitution, treaties or statutes  
4 of the United States; provided that, in the case of any  
5 statute of this State that exempts income derived from  
6 bonds or other obligations from the tax imposed under  
7 this Act, the amount exempted shall be the interest net  
8 of bond premium amortization;

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

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

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.)