



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1777

Introduced 2/15/2013, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

New Act

30 ILCS 105/5.826 new

35 ILCS 5/203

35 ILCS 5/224 new

from Ch. 120, par. 2-203

Creates the Opportunity Scholarship Act and amends the State Finance Act and the Illinois Income Tax Act. Establishes the Opportunity Scholarship Program. Provides that under the program the custodian of a qualifying pupil is entitled to a Opportunity Scholarship to pay for qualified education expenses at participating nonpublic elementary schools in Cook County. Sets forth provisions concerning notification of scholarships, a request for a scholarship, the issuance and payment of a scholarship, the amount of a scholarship, the renewal of a scholarship, pupil assessment, the longitudinal data system, reporting attendance, nonpublic school students, a report on the program and expansion of the program, penalties, and rules. Provides that the amount received under the program shall not be considered base income for purposes of Illinois' income tax. Creates the Opportunity Scholarship Fund as a special fund in the State treasury, with money in the Fund being used by the State Board of Education for the purposes of the Opportunity Scholarship Act. Provides for a tax credit for contributions made to the Opportunity Scholarship Fund. Effective immediately.

LRB098 09577 NHT 39723 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning education.

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

4 Section 1. Short title. This Act may be cited as the
5 Opportunity Scholarship Act.

6 Section 5. Definitions. As used in this Act:

7 "Low-performing school" means a public school in Cook
8 County that enrolls students in any of grades kindergarten
9 through 12 and that is ranked within the lowest 10% of schools
10 in that county in terms of the percentage of students meeting
11 or exceeding standards on the Illinois Standards Achievement
12 Test.

13 "Nonpublic school" means any State-recognized, nonpublic
14 elementary school in Cook County that elects to participate in
15 the Opportunity Scholarship Program under this Act and does not
16 discriminate on the basis of race, color, or national origin
17 under Title VI of the Civil Rights Act of 1964 and attendance
18 at which satisfies the requirements of Section 26-1 of the
19 School Code, except that nothing in Section 26-1 shall be
20 construed to require a child to attend any particular nonpublic
21 school.

22 "Overcrowded school" means a public school in Cook County
23 that (i) enrolls students in any of grades kindergarten through

1 12; (ii) has a percentage of low-income students of 70% or
2 more, as identified in the most recently available school
3 report card published by the State Board of Education; and
4 (iii) is determined by the State Board of Education to be in
5 the most severely overcrowded 5% of schools in the county. On
6 or before November 1 of each year, the State Board of Education
7 shall file a report with the General Assembly on which schools
8 in the county meet the definition of "overcrowded school".

9 "Qualifying pupil" means an individual who meets the
10 following qualifications:

11 (1) is a resident of Cook County;

12 (2) is enrolled in any of grades kindergarten through
13 11 in a low-performing school or an overcrowded school or
14 would enter kindergarten in a low-performing school or
15 overcrowded school during the school year for which a
16 scholarship is sought; and

17 (3) during the school year for which a scholarship is
18 sought, is a full-time pupil enrolled in a kindergarten
19 through 12th grade education program.

20 "Scholarship" means an Opportunity Scholarship issued
21 under this Act.

22 Section 10. Establishment of program. There is established
23 the Opportunity Scholarship Program. Under the program, a
24 custodian of a qualifying pupil is entitled to a scholarship at
25 any participating nonpublic school in which the qualifying

1 pupil is enrolled. However, the issuance of scholarships is
2 contingent upon funds being available in the Opportunity
3 Scholarship Fund for such purpose.

4 A qualifying pupil is entitled to enroll at and attend any
5 participating nonpublic school of his or her choice.

6 Section 15. Notification of scholarships. The principal of
7 each low-performing school and of each overcrowded school in
8 Cook County shall notify custodians of qualifying pupils that
9 scholarships under this Act are available for the next school
10 year. Notification shall occur in January of each school year.

11 Section 20. Request for scholarship. A custodian who
12 applies in accordance with procedures established by the State
13 Board of Education shall, subject to the availability of funds,
14 receive a scholarship for each qualifying pupil enrolled in a
15 participating nonpublic school under this Act within the dollar
16 limits set out in Section 30 of this Act. The procedure shall
17 require application for the scholarship, with documentation as
18 to eligibility, between March 1 and May 1 prior to the school
19 year in which the scholarship is to be used.

20 Section 25. Issuance and payment of scholarship. A
21 scholarship may only be issued to a custodian who has made
22 proper application pursuant to Section 20 of this Act. The
23 custodian shall present the scholarship for each qualifying

1 pupil to a participating nonpublic school of his or her choice
2 as payment for qualified education expenses. Upon presentment,
3 the State Board of Education shall honor the scholarship and,
4 as issuer of the instrument, pay the participating school in
5 accordance with procedures established by the State Board of
6 Education. The procedures shall require all of the following:

7 (1) that the applying custodian be notified of the
8 scholarship award by August 1 of the school year in which
9 the scholarship is to be used;

10 (2) that the scholarship instrument be issued to the
11 custodian no later than September 15 of the school year in
12 which the scholarship is to be used;

13 (3) that the custodian present the scholarship
14 instrument to the participating school no later than
15 October 1 of the school year in which the scholarship is to
16 be used;

17 (4) that the participating school present the
18 scholarship instrument, with proof of service to the
19 custodian of the qualifying pupil, to the State Board of
20 Education no later than October 31 of the school year in
21 which the scholarship is to be used;

22 (5) that the State Board of Education shall honor the
23 scholarship instrument and as issuer pay the participating
24 school no later than December 31 of the school year in
25 which the scholarship is to be used;

26 (6) that participating schools must not be required to

1 accept scholarships as full payment for services, but
2 neither shall they charge scholarship pupils tuition or any
3 other educational expenses at a higher rate than other
4 pupils; and

5 (7) that if a student attending a nonpublic school
6 under the Opportunity Scholarship Program is expelled or
7 withdraws from the nonpublic school or moves out of the
8 boundaries of Cook County before the State Board of
9 Education has honored the scholarship of the school, then
10 the State Board of Education shall pay the corresponding
11 prorated portion of the scholarship amount to the nonpublic
12 school; and that if the State Board of Education has paid
13 the scholarship amount to the nonpublic school and the
14 pupil is expelled, withdraws, or moves out of the
15 boundaries of Cook County, then the nonpublic school shall
16 refund the corresponding prorated portion of the
17 scholarship to the State Board of Education. Any funds
18 returned to the State Board of Education must be deposited
19 into the Opportunity Scholarship Fund.

20 Section 30. Amount of scholarship. An Opportunity
21 Scholarship for qualified education expenses incurred through
22 participating nonpublic schools during a school year shall be
23 for the lesser of (i) the amount of the portion of the
24 foundation level of support, on a per pupil basis, funded by
25 this State pursuant to subsection (B) of Section 18-8.05 of the

1 School Code for the previous fiscal year, plus the amount equal
2 to the total supplemental general State aid grant awarded to a
3 public school in Cook County pursuant to subsection (H) of
4 Section 18-8.05 of the School Code for the previous fiscal
5 year, divided by the total average daily attendance used in the
6 calculation of general State aid for the public school in Cook
7 County for the previous fiscal year, or (ii) the actual
8 qualified education expenses related to the qualifying pupil's
9 enrollment.

10 Section 35. Renewal of scholarship. Opportunity
11 Scholarships are renewable every year through grade 8 so long
12 as the pupil continues to reside in Cook County and the
13 nonpublic school elects to continue participating in the
14 Opportunity Scholarship Program.

15 Section 40. Assessment. All pupils receiving services
16 obtained through Opportunity Scholarships must be assessed
17 annually in the same manner as this State's public school
18 students. The State Board of Education may adopt rules with
19 respect to the assessment of such pupils, which may include,
20 but are not limited to, rules pertaining to test security, test
21 administration and location, and reporting procedures.

22 Section 45. Longitudinal data system. Nonpublic schools
23 participating in this Act must participate in the longitudinal

1 data system established under the P-20 Longitudinal Education
2 Data System Act by disclosing data to the State Board of
3 Education for those students attending a nonpublic school on an
4 Opportunity Scholarship issued under this Act.

5 Section 50. Reporting attendance. Nonpublic schools
6 participating in the Opportunity Scholarship Program must
7 report the attendance of students with scholarships to the
8 State Board of Education in the manner requested by the public
9 school district the student would attend without the
10 scholarship. Students enrolled in nonpublic schools under a
11 scholarship must not be considered enrolled in a Cook County
12 public school for any purpose.

13 Section 55. Nonpublic school student. For the purposes of
14 this Act, students receiving an Opportunity Scholarship are
15 considered nonpublic school students who have been voluntarily
16 placed in a private setting by the parent or guardian.

17 Section 60. Not base income. The amount of any scholarship
18 redeemed under this Act shall not be considered base income
19 under subsection (a) of Section 203 of the Illinois Income Tax
20 Act and shall not be taxable for Illinois income tax purposes.

21 Section 65. Opportunity Scholarship Fund. The Opportunity
22 Scholarship Fund is created as a special fund in the State

1 treasury. Contributions from individuals and businesses may be
2 made to and deposited into the Fund. All money in the Fund
3 shall be used, subject to appropriation, by the State Board of
4 Education for the purposes of this Act.

5 Section 90. Report and expansion. On or before December 31,
6 2015, the State Board of Education shall submit a report to the
7 General Assembly reviewing the current status of the
8 Opportunity Scholarship Program and shall publish this report
9 on its Internet website. This report shall include without
10 limitation the number of qualifying pupils receiving a
11 scholarship, the names of the schools from which and to which
12 pupils transferred, the financial ramifications of the
13 program, and the results of pupil assessments. In its report,
14 the State Board of Education shall assess whether the program
15 has been financially and academically beneficial and shall make
16 a recommendation on whether the program should be expanded to
17 other schools in Cook County or to other areas of this State.

18 This Section is repealed on December 31, 2016.

19 Section 95. Penalties. It shall be a Class 3 felony to use
20 or attempt to use a scholarship under this Act for any purpose
21 other than those permitted by this Act. It shall also be a
22 Class 3 felony for any person, with intent to defraud, to
23 knowingly forge, alter, or misrepresent information on a
24 scholarship application or on any documents submitted in

1 application for a scholarship, to deliver any such document
2 knowing it to have been thus forged, altered, or based on
3 misrepresentation, or to possess, with intent to issue or
4 deliver, any such document knowing it to have been thus forged,
5 altered, or based on misrepresentation.

6 Section 100. Rules. The State Board of Education shall
7 adopt rules to implement this Act. The creation of the
8 Opportunity Scholarship Program does not expand the regulatory
9 authority of this State, its officers, or any school district
10 to impose any additional regulation of nonpublic schools beyond
11 those reasonably necessary to enforce the requirements of the
12 program.

13 Section 900. The State Finance Act is amended by adding
14 Section 5.826 as follows:

15 (30 ILCS 105/5.826 new)

16 Sec. 5.826. The Opportunity Scholarship Fund.

17 Section 905. The Illinois Income Tax Act is amended by
18 changing Section 203 and by adding Section 224 as follows:

19 (35 ILCS 5/203) (from Ch. 120, par. 2-203)

20 Sec. 203. Base income defined.

21 (a) Individuals.

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

5 (2) Modifications. The adjusted gross income referred
6 to in paragraph (1) shall be modified by adding thereto the
7 sum 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 adjusted gross income, except
12 stock dividends of qualified public utilities
13 described in Section 305(e) of the Internal Revenue
14 Code;

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

19 (C) An amount equal to the amount received during
20 the taxable year as a recovery or refund of real
21 property taxes paid with respect to the taxpayer's
22 principal residence under the Revenue Act of 1939 and
23 for which a deduction was previously taken under
24 subparagraph (L) of this paragraph (2) prior to July 1,
25 1991, the retrospective application date of Article 4
26 of Public Act 87-17. In the case of multi-unit or

1 multi-use structures and farm dwellings, the taxes on
2 the taxpayer's principal residence shall be that
3 portion of the total taxes for the entire property
4 which is attributable to such principal residence;

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

9 (D-5) An amount, to the extent not included in
10 adjusted gross income, equal to the amount of money
11 withdrawn by the taxpayer in the taxable year from a
12 medical care savings account and the interest earned on
13 the account in the taxable year of a withdrawal
14 pursuant to subsection (b) of Section 20 of the Medical
15 Care Savings Account Act or subsection (b) of Section
16 20 of the Medical Care Savings Account Act of 2000;

17 (D-10) For taxable years ending after December 31,
18 1997, an amount equal to any eligible remediation costs
19 that the individual deducted in computing adjusted
20 gross income and for which the individual claims a
21 credit under subsection (l) of Section 201;

22 (D-15) 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-16) 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-15), then
5 an amount equal to the aggregate amount of the
6 deductions taken in all taxable years under
7 subparagraph (Z) 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 (Z), 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-17) 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 that 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 under Sections 951 through 964
14 of the Internal Revenue Code and amounts included in
15 gross income under Section 78 of the Internal Revenue
16 Code) with respect to the stock of the same person to
17 whom the interest was paid, accrued, or incurred.

18 This paragraph shall not apply to the following:

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

25 (ii) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a person if

1 the taxpayer can establish, based on a
2 preponderance of the evidence, both of the
3 following:

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

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

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

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

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

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

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

1 works, trade secrets, and similar types of intangible
2 assets.

3 This paragraph shall not apply to the following:

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

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

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

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

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

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

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

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

18 (D-20) For taxable years beginning on or after
19 January 1, 2002 and ending on or before December 31,
20 2006, in the case of a distribution from a qualified
21 tuition program under Section 529 of the Internal
22 Revenue Code, other than (i) a distribution from a
23 College Savings Pool created under Section 16.5 of the
24 State Treasurer Act or (ii) a distribution from the
25 Illinois Prepaid Tuition Trust Fund, an amount equal to
26 the amount excluded from gross income under Section

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

21 For the purposes of this subparagraph (D-20), a
22 qualified tuition program has made reasonable efforts
23 if it makes disclosures (which may use the term
24 "in-state program" or "in-state plan" and need not
25 specifically refer to Illinois or its qualified
26 programs by name) (i) directly to prospective

1 participants in its offering materials or makes a
2 public disclosure, such as a website posting; and (ii)
3 where applicable, to intermediaries selling the
4 out-of-state program in the same manner that the
5 out-of-state program distributes its offering
6 materials;

7 (D-21) For taxable years beginning on or after
8 January 1, 2007, in the case of transfer of moneys from
9 a qualified tuition program under Section 529 of the
10 Internal Revenue Code that is administered by the State
11 to an out-of-state program, an amount equal to the
12 amount of moneys previously deducted from base income
13 under subsection (a) (2) (Y) of this Section;

14 (D-22) For taxable years beginning on or after
15 January 1, 2009, in the case of a nonqualified
16 withdrawal or refund of moneys from a qualified tuition
17 program under Section 529 of the Internal Revenue Code
18 administered by the State that is not used for
19 qualified expenses at an eligible education
20 institution, an amount equal to the contribution
21 component of the nonqualified withdrawal or refund
22 that was previously deducted from base income under
23 subsection (a) (2) (y) of this Section, provided that
24 the withdrawal or refund did not result from the
25 beneficiary's death or disability;

26 (D-23) An amount equal to the credit allowable to

1 the taxpayer under Section 218(a) of this Act,
2 determined without regard to Section 218(c) of this
3 Act;

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

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

1 of the Armed Forces of the United States and in respect
2 of any compensation paid or accrued to a resident who
3 as a governmental employee was a prisoner of war or
4 missing in action, and in respect of any compensation
5 paid to a resident in 2001 or thereafter by reason of
6 being a member of the Illinois National Guard or,
7 beginning with taxable years ending on or after
8 December 31, 2007, the National Guard of any other
9 state. The provisions of this subparagraph (E) are
10 exempt from the provisions of Section 250;

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

22 (G) The valuation limitation amount;

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

26 (I) An amount equal to all amounts included in such

1 total pursuant to the provisions of Section 111 of the
2 Internal Revenue Code as a recovery of items previously
3 deducted from adjusted gross income in the computation
4 of taxable income;

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

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

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

1 (M) With the exception of any amounts subtracted
2 under subparagraph (N), an amount equal to the sum of
3 all amounts disallowed as deductions by (i) Sections
4 171(a) (2), and 265(2) of the Internal Revenue Code,
5 and all amounts of expenses allocable to interest and
6 disallowed as deductions by Section 265(1) of the
7 Internal Revenue Code; and (ii) for taxable years
8 ending on or after August 13, 1999, Sections 171(a) (2),
9 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
10 Code, plus, for taxable years ending on or after
11 December 31, 2011, Section 45G(e) (3) of the Internal
12 Revenue Code and, for taxable years ending on or after
13 December 31, 2008, any amount included in gross income
14 under Section 87 of the Internal Revenue Code; the
15 provisions of this subparagraph are exempt from the
16 provisions of Section 250;

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

26 (O) An amount equal to any contribution made to a

1 job training project established pursuant to the Tax
2 Increment Allocation Redevelopment Act;

3 (P) An amount equal to the amount of the deduction
4 used to compute the federal income tax credit for
5 restoration of substantial amounts held under claim of
6 right for the taxable year pursuant to Section 1341 of
7 the Internal Revenue Code or of any itemized deduction
8 taken from adjusted gross income in the computation of
9 taxable income for restoration of substantial amounts
10 held under claim of right for the taxable year;

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

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

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

26 (T) An amount, to the extent included in adjusted

1 gross income, equal to the amount of interest earned in
2 the taxable year on a medical care savings account
3 established under the Medical Care Savings Account Act
4 or the Medical Care Savings Account Act of 2000 on
5 behalf of the taxpayer, other than interest added
6 pursuant to item (D-5) of this paragraph (2);

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

13 (V) Beginning with tax years ending on or after
14 December 31, 1995 and ending with tax years ending on
15 or before December 31, 2004, an amount equal to the
16 amount paid by a taxpayer who is a self-employed
17 taxpayer, a partner of a partnership, or a shareholder
18 in a Subchapter S corporation for health insurance or
19 long-term care insurance for that taxpayer or that
20 taxpayer's spouse or dependents, to the extent that the
21 amount paid for that health insurance or long-term care
22 insurance may be deducted under Section 213 of the
23 Internal Revenue Code, has not been deducted on the
24 federal income tax return of the taxpayer, and does not
25 exceed the taxable income attributable to that
26 taxpayer's income, self-employment income, or

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

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

19 (X) For taxable year 1999 and thereafter, an amount
20 equal to the amount of any (i) distributions, to the
21 extent includible in gross income for federal income
22 tax purposes, made to the taxpayer because of his or
23 her status as a victim of persecution for racial or
24 religious reasons by Nazi Germany or any other Axis
25 regime or as an heir of the victim and (ii) items of
26 income, to the extent includible in gross income for

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

26 (Y) For taxable years beginning on or after January

1 1, 2002 and ending on or before December 31, 2004,
2 moneys contributed in the taxable year to a College
3 Savings Pool account under Section 16.5 of the State
4 Treasurer Act, except that amounts excluded from gross
5 income under Section 529(c)(3)(C)(i) of the Internal
6 Revenue Code shall not be considered moneys
7 contributed under this subparagraph (Y). For taxable
8 years beginning on or after January 1, 2005, a maximum
9 of \$10,000 contributed in the taxable year to (i) a
10 College Savings Pool account under Section 16.5 of the
11 State Treasurer Act or (ii) the Illinois Prepaid
12 Tuition Trust Fund, except that amounts excluded from
13 gross income under Section 529(c)(3)(C)(i) of the
14 Internal Revenue Code shall not be considered moneys
15 contributed under this subparagraph (Y). For purposes
16 of this subparagraph, contributions made by an
17 employer on behalf of an employee, or matching
18 contributions made by an employee, shall be treated as
19 made by the employee. This subparagraph (Y) is exempt
20 from the provisions of Section 250;

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

1 (1) "y" equals the amount of the depreciation
2 deduction taken for the taxable year on the
3 taxpayer's federal income tax return on property
4 for which the bonus depreciation deduction was
5 taken in any year under subsection (k) of Section
6 168 of the Internal Revenue Code, but not including
7 the bonus depreciation deduction;

8 (2) for taxable years ending on or before
9 December 31, 2005, "x" equals "y" multiplied by 30
10 and then divided by 70 (or "y" multiplied by
11 0.429); and

12 (3) for taxable years ending after December
13 31, 2005:

14 (i) for property on which a bonus
15 depreciation deduction of 30% of the adjusted
16 basis was taken, "x" equals "y" multiplied by
17 30 and then divided by 70 (or "y" multiplied by
18 0.429); and

19 (ii) for property on which a bonus
20 depreciation deduction of 50% of the adjusted
21 basis was taken, "x" equals "y" multiplied by
22 1.0.

23 The aggregate amount deducted under this
24 subparagraph in all taxable years for any one piece of
25 property may not exceed the amount of the bonus
26 depreciation deduction taken on that property on the

1 taxpayer's federal income tax return under subsection
2 (k) of Section 168 of the Internal Revenue Code. This
3 subparagraph (Z) is exempt from the provisions of
4 Section 250;

5 (AA) If the taxpayer sells, transfers, abandons,
6 or otherwise disposes of property for which the
7 taxpayer was required in any taxable year to make an
8 addition modification under subparagraph (D-15), then
9 an amount equal to that addition modification.

10 If the taxpayer continues to own property through
11 the last day of the last tax year for which the
12 taxpayer may claim a depreciation deduction for
13 federal income tax purposes and for which the taxpayer
14 was required in any taxable year to make an addition
15 modification under subparagraph (D-15), then an amount
16 equal to that addition modification.

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

20 This subparagraph (AA) is exempt from the
21 provisions of Section 250;

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

25 (CC) The amount of (i) any interest income (net of
26 the deductions allocable thereto) taken into account

1 for the taxable year with respect to a transaction with
2 a taxpayer that is required to make an addition
3 modification with respect to such transaction under
4 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
5 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
6 the amount of that addition modification, and (ii) any
7 income from intangible property (net of the deductions
8 allocable thereto) taken into account for the taxable
9 year with respect to a transaction with a taxpayer that
10 is required to make an addition modification with
11 respect to such transaction under Section
12 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
13 203(d)(2)(D-8), but not to exceed the amount of that
14 addition modification. This subparagraph (CC) is
15 exempt from the provisions of Section 250;

16 (DD) An amount equal to the interest income taken
17 into account for the taxable year (net of the
18 deductions allocable thereto) with respect to
19 transactions with (i) a foreign person who would be a
20 member of the taxpayer's unitary business group but for
21 the fact that the foreign person's business activity
22 outside the United States is 80% or more of that
23 person's total business activity and (ii) for taxable
24 years ending on or after December 31, 2008, to a person
25 who would be a member of the same unitary business
26 group but for the fact that the person is prohibited

1 under Section 1501(a)(27) from being included in the
2 unitary business group because he or she is ordinarily
3 required to apportion business income under different
4 subsections of Section 304, but not to exceed the
5 addition modification required to be made for the same
6 taxable year under Section 203(a)(2)(D-17) for
7 interest paid, accrued, or incurred, directly or
8 indirectly, to the same person. This subparagraph (DD)
9 is exempt from the provisions of Section 250;

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

1 intangible expenses and costs paid, accrued, or
2 incurred, directly or indirectly, to the same foreign
3 person. This subparagraph (EE) is exempt from the
4 provisions of Section 250;

5 (FF) An amount equal to any amount awarded to the
6 taxpayer during the taxable year by the Court of Claims
7 under subsection (c) of Section 8 of the Court of
8 Claims Act for time unjustly served in a State prison.
9 This subparagraph (FF) is exempt from the provisions of
10 Section 250; ~~and~~

11 (GG) For taxable years ending on or after December
12 31, 2011, in the case of a taxpayer who was required to
13 add back any insurance premiums under Section
14 203(a)(2)(D-19), such taxpayer may elect to subtract
15 that part of a reimbursement received from the
16 insurance company equal to the amount of the expense or
17 loss (including expenses incurred by the insurance
18 company) that would have been taken into account as a
19 deduction for federal income tax purposes if the
20 expense or loss had been uninsured. If a taxpayer makes
21 the election provided for by this subparagraph (GG),
22 the insurer to which the premiums were paid must add
23 back to income the amount subtracted by the taxpayer
24 pursuant to this subparagraph (GG). This subparagraph
25 (GG) is exempt from the provisions of Section 250; ~~and.~~

26 (HH) For taxable years ending on or after December

1 31, 2013, an amount, to the extent that it is included
2 in adjusted gross income, equal to any scholarship
3 redeemed under the Opportunity Scholarship Act. This
4 subparagraph (HH) is exempt from the provisions of
5 Section 250.

6 (b) Corporations.

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

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

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

18 (B) 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 (C) In the case of a regulated investment company,
22 an amount equal to the excess of (i) the net long-term
23 capital gain for the taxable year, over (ii) the amount
24 of the capital gain dividends designated as such in
25 accordance with Section 852(b)(3)(C) of the Internal

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

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

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

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

1 income of an earlier taxable year, and

2 (ii) the addition modification relating to the
3 net operating loss carried back or forward to the
4 taxable year from any taxable year ending prior to
5 December 31, 1986 shall not exceed the amount of
6 such carryback or carryforward;

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

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

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

24 (E-11) If the taxpayer sells, transfers, abandons,
25 or otherwise disposes of property for which the
26 taxpayer was required in any taxable year to make an

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

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

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

15 (E-12) An amount equal to the amount otherwise
16 allowed as a deduction in computing base income for
17 interest paid, accrued, or incurred, directly or
18 indirectly, (i) for taxable years ending on or after
19 December 31, 2004, to a foreign person who would be a
20 member of the same unitary business group but for the
21 fact the foreign person's business activity outside
22 the United States is 80% or more of the foreign
23 person's total business activity and (ii) for taxable
24 years ending on or after December 31, 2008, to a person
25 who would be a member of the same unitary business
26 group but for the fact that the person is prohibited

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

16 This paragraph shall not apply to the following:

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

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

1 following:

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

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

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

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

25 Nothing in this subsection shall preclude the
26 Director from making any other adjustment

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

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

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

1 This paragraph shall not apply to the following:

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

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

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

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

25 (iii) any item of intangible expense or cost
26 paid, accrued, or incurred, directly or

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

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

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

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

16 (E-15) For taxable years beginning after December
17 31, 2008, any deduction for dividends paid by a captive
18 real estate investment trust that is allowed to a real
19 estate investment trust under Section 857(b) (2) (B) of
20 the Internal Revenue Code for dividends paid;

21 (E-16) An amount equal to the credit allowable to
22 the taxpayer under Section 218(a) of this Act,
23 determined without regard to Section 218(c) of this
24 Act;

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

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

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

6 (H) In the case of a regulated investment company,
7 an amount equal to the amount of exempt interest
8 dividends as defined in subsection (b) (5) of Section
9 852 of the Internal Revenue Code, paid to shareholders
10 for the taxable year;

11 (I) With the exception of any amounts subtracted
12 under subparagraph (J), an amount equal to the sum of
13 all amounts disallowed as deductions by (i) Sections
14 171(a) (2), and 265(a) (2) and amounts disallowed as
15 interest expense by Section 291(a) (3) of the Internal
16 Revenue Code, and all amounts of expenses allocable to
17 interest and disallowed as deductions by Section
18 265(a) (1) of the Internal Revenue Code; and (ii) for
19 taxable years ending on or after August 13, 1999,
20 Sections 171(a) (2), 265, 280C, 291(a) (3), and
21 832(b) (5) (B) (i) of the Internal Revenue Code, plus,
22 for tax years ending on or after December 31, 2011,
23 amounts disallowed as deductions by Section 45G(e) (3)
24 of the Internal Revenue Code and, for taxable years
25 ending on or after December 31, 2008, any amount
26 included in gross income under Section 87 of the

1 Internal Revenue Code and the policyholders' share of
2 tax-exempt interest of a life insurance company under
3 Section 807(a)(2)(B) of the Internal Revenue Code (in
4 the case of a life insurance company with gross income
5 from a decrease in reserves for the tax year) or
6 Section 807(b)(1)(B) of the Internal Revenue Code (in
7 the case of a life insurance company allowed a
8 deduction for an increase in reserves for the tax
9 year); the provisions of this subparagraph are exempt
10 from the provisions of Section 250;

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

20 (K) An amount equal to those dividends included in
21 such total which were paid by a corporation which
22 conducts business operations in a River Edge
23 Redevelopment Zone or zones created under the River
24 Edge Redevelopment Zone Act and conducts substantially
25 all of its operations in a River Edge Redevelopment
26 Zone or 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 River Edge
17 Redevelopment Zone Investment Credit. To determine the
18 portion of a loan or loans that is secured by property
19 eligible for a Section 201(f) investment credit to the
20 borrower, the entire principal amount of the loan or
21 loans between the taxpayer and the borrower should be
22 divided into the basis of the Section 201(f) investment
23 credit property which secures the loan or loans, using
24 for this purpose the original basis of such property on
25 the date that it was placed in service in the River
26 Edge Redevelopment Zone. The subtraction modification

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

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

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

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

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

1 dividends received or deemed received or paid or deemed
2 paid under Sections 951 through 965 of the Internal
3 Revenue Code, exceed the amount of the modification
4 provided under subparagraph (G) of paragraph (2) of
5 this subsection (b) which is related to such dividends,
6 and including, for taxable years ending on or after
7 December 31, 2008, dividends received from a captive
8 real estate investment trust; plus (ii) 100% of the
9 amount by which dividends, included in taxable income
10 and received, including, for taxable years ending on or
11 after December 31, 1988, dividends received or deemed
12 received or paid or deemed paid under Sections 951
13 through 964 of the Internal Revenue Code and including,
14 for taxable years ending on or after December 31, 2008,
15 dividends received from a captive real estate
16 investment trust, from any such corporation specified
17 in clause (i) that would but for the provisions of
18 Section 1504 (b) (3) of the Internal Revenue Code be
19 treated as a member of the affiliated group which
20 includes the dividend recipient, exceed the amount of
21 the modification provided under subparagraph (G) of
22 paragraph (2) of this subsection (b) which is related
23 to such dividends. This subparagraph (O) is exempt from
24 the provisions of Section 250 of this Act;

25 (P) An amount equal to any contribution made to a
26 job training project established pursuant to the Tax

1 Increment Allocation Redevelopment Act;

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

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

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

1 tax by reason of Section 501(a) of the Internal Revenue
2 Code. This subparagraph (S) is exempt from the
3 provisions of Section 250;

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

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

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

21 (3) for taxable years ending after December
22 31, 2005:

23 (i) for property on which a bonus
24 depreciation deduction of 30% of the adjusted
25 basis was taken, "x" equals "y" multiplied by
26 30 and then divided by 70 (or "y" multiplied by

1 0.429); and
2 (ii) for property on which a bonus
3 depreciation deduction of 50% of the adjusted
4 basis was taken, "x" equals "y" multiplied by
5 1.0.

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

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

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 required in any taxable year to make an addition
24 modification under subparagraph (E-10), then an amount
25 equal to that addition modification.

26 The taxpayer is allowed to take the deduction under

1 this subparagraph only once with respect to any one
2 piece of property.

3 This subparagraph (U) is exempt from the
4 provisions of Section 250;

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

1 203(d) (2) (D-9), but not to exceed the amount of that
2 addition modification. This subparagraph (V) is exempt
3 from the provisions of Section 250;

4 (W) 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 that 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(b) (2) (E-12) for
21 interest paid, accrued, or incurred, directly or
22 indirectly, to the same person. This subparagraph (W)
23 is exempt from the provisions of Section 250;

24 (X) 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(b)(2)(E-13) for
15 intangible expenses and costs paid, accrued, or
16 incurred, directly or indirectly, to the same foreign
17 person. This subparagraph (X) is exempt from the
18 provisions of Section 250;

19 (Y) For taxable years ending on or after December
20 31, 2011, in the case of a taxpayer who was required to
21 add back any insurance premiums under Section
22 203(b)(2)(E-14), such taxpayer may elect to subtract
23 that part of a reimbursement received from the
24 insurance company equal to the amount of the expense or
25 loss (including expenses incurred by the insurance
26 company) that would have been taken into account as a

1 deduction for federal income tax purposes if the
2 expense or loss had been uninsured. If a taxpayer makes
3 the election provided for by this subparagraph (Y), the
4 insurer to which the premiums were paid must add back
5 to income the amount subtracted by the taxpayer
6 pursuant to this subparagraph (Y). This subparagraph
7 (Y) is exempt from the provisions of Section 250; and

8 (Z) The difference between the nondeductible
9 controlled foreign corporation dividends under Section
10 965(e) (3) of the Internal Revenue Code over the taxable
11 income of the taxpayer, computed without regard to
12 Section 965(e) (2) (A) of the Internal Revenue Code, and
13 without regard to any net operating loss deduction.
14 This subparagraph (Z) is exempt from the provisions of
15 Section 250.

16 (3) Special rule. For purposes of paragraph (2) (A),
17 "gross income" in the case of a life insurance company, for
18 tax years ending on and after December 31, 1994, and prior
19 to December 31, 2011, shall mean the gross investment
20 income for the taxable year and, for tax years ending on or
21 after December 31, 2011, shall mean all amounts included in
22 life insurance gross income under Section 803(a) (3) of the
23 Internal Revenue Code.

24 (c) Trusts and estates.

25 (1) In general. In the case of a trust or estate, base

1 income means an amount equal to the taxpayer's taxable
2 income for the taxable year as modified by paragraph (2).

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

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

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

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

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

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

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

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

22 (G-11) If the taxpayer sells, transfers, abandons,
23 or otherwise disposes of property for which the
24 taxpayer was required in any taxable year to make an
25 addition modification under subparagraph (G-10), then
26 an amount equal to the aggregate amount of the

1 deductions taken in all taxable years under
2 subparagraph (R) with respect to that property.

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

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

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

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

14 This paragraph shall not apply to the following:

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

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

26 (a) the person, during the same taxable

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

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

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

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

23 Nothing in this subsection shall preclude the
24 Director from making any other adjustment
25 otherwise allowed under Section 404 of this Act for
26 any tax year beginning after the effective date of

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

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

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

25 This paragraph shall not apply to the following:

26 (i) any item of intangible expenses or costs

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

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

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

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

23 (iii) any item of intangible expense or cost
24 paid, accrued, or incurred, directly or
25 indirectly, from a transaction with a person if the
26 taxpayer establishes by clear and convincing

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

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

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

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

14 (G-15) An amount equal to the credit allowable to
15 the taxpayer under Section 218(a) of this Act,
16 determined without regard to Section 218(c) of this
17 Act;

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

20 (H) An amount equal to all amounts included in such
21 total pursuant to the provisions of Sections 402(a),
22 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the
23 Internal Revenue Code or included in such total as
24 distributions under the provisions of any retirement
25 or disability plan for employees of any governmental
26 agency or unit, or retirement payments to retired

1 partners, which payments are excluded in computing net
2 earnings from self employment by Section 1402 of the
3 Internal Revenue Code and regulations adopted pursuant
4 thereto;

5 (I) The valuation limitation amount;

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

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

20 (L) With the exception of any amounts subtracted
21 under subparagraph (K), an amount equal to the sum of
22 all amounts disallowed as deductions by (i) Sections
23 171(a) (2) and 265(a) (2) of the Internal Revenue Code,
24 and all amounts of expenses allocable to interest and
25 disallowed as deductions by Section 265(1) of the
26 Internal Revenue Code; and (ii) for taxable years

1 ending on or after August 13, 1999, Sections 171(a)(2),
2 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue
3 Code, plus, (iii) for taxable years ending on or after
4 December 31, 2011, Section 45G(e)(3) of the Internal
5 Revenue Code and, for taxable years ending on or after
6 December 31, 2008, any amount included in gross income
7 under Section 87 of the Internal Revenue Code; the
8 provisions of this subparagraph are exempt from the
9 provisions of Section 250;

10 (M) An amount equal to those dividends included in
11 such total which were paid by a corporation which
12 conducts business operations in a River Edge
13 Redevelopment Zone or zones created under the River
14 Edge Redevelopment Zone Act and conducts substantially
15 all of its operations in a River Edge Redevelopment
16 Zone or zones. This subparagraph (M) is exempt from the
17 provisions of Section 250;

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

21 (O) An amount equal to those dividends included in
22 such total that were paid by a corporation that
23 conducts business operations in a federally designated
24 Foreign Trade Zone or Sub-Zone and that is designated a
25 High Impact Business located in Illinois; provided
26 that dividends eligible for the deduction provided in

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

4 (P) 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;

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

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

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

22 (1) "y" equals the amount of the depreciation
23 deduction taken for the taxable year on the
24 taxpayer's federal income tax return on property
25 for which the bonus depreciation deduction was
26 taken in any year under subsection (k) of Section

1 168 of the Internal Revenue Code, but not including
2 the bonus depreciation deduction;

3 (2) for taxable years ending on or before
4 December 31, 2005, "x" equals "y" multiplied by 30
5 and then divided by 70 (or "y" multiplied by
6 0.429); and

7 (3) for taxable years ending after December
8 31, 2005:

9 (i) for property on which a bonus
10 depreciation deduction of 30% of the adjusted
11 basis was taken, "x" equals "y" multiplied by
12 30 and then divided by 70 (or "y" multiplied by
13 0.429); and

14 (ii) for property on which a bonus
15 depreciation deduction of 50% of the adjusted
16 basis was taken, "x" equals "y" multiplied by
17 1.0.

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

26 (S) If the taxpayer sells, transfers, abandons, or

1 otherwise disposes of property for which the taxpayer
2 was required in any taxable year to make an addition
3 modification under subparagraph (G-10), then an amount
4 equal to that addition modification.

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

12 The taxpayer is allowed to take the deduction under
13 this subparagraph only once with respect to any one
14 piece of property.

15 This subparagraph (S) is exempt from the
16 provisions of Section 250;

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

1 year with respect to a transaction with a taxpayer that
2 is required to make an addition modification with
3 respect to such transaction under Section
4 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
5 203(d)(2)(D-8), but not to exceed the amount of such
6 addition modification. This subparagraph (T) is exempt
7 from the provisions of Section 250;

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

1 is exempt from the provisions of Section 250;

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

23 (W) in the case of an estate, an amount equal to
24 all amounts included in such total pursuant to the
25 provisions of Section 111 of the Internal Revenue Code
26 as a recovery of items previously deducted by the

1 decedent from adjusted gross income in the computation
2 of taxable income. This subparagraph (W) is exempt from
3 Section 250;

4 (X) an amount equal to the refund included in such
5 total of any tax deducted for federal income tax
6 purposes, to the extent that deduction was added back
7 under subparagraph (F). This subparagraph (X) is
8 exempt from the provisions of Section 250; and

9 (Y) For taxable years ending on or after December
10 31, 2011, in the case of a taxpayer who was required to
11 add back any insurance premiums under Section
12 203(c)(2)(G-14), such taxpayer may elect to subtract
13 that part of a reimbursement received from the
14 insurance company equal to the amount of the expense or
15 loss (including expenses incurred by the insurance
16 company) that would have been taken into account as a
17 deduction for federal income tax purposes if the
18 expense or loss had been uninsured. If a taxpayer makes
19 the election provided for by this subparagraph (Y), the
20 insurer to which the premiums were paid must add back
21 to income the amount subtracted by the taxpayer
22 pursuant to this subparagraph (Y). This subparagraph
23 (Y) is exempt from the provisions of Section 250.

24 (3) Limitation. The amount of any modification
25 otherwise required under this subsection shall, under
26 regulations prescribed by the Department, be adjusted by

1 any amounts included therein which were properly paid,
2 credited, or required to be distributed, or permanently set
3 aside for charitable purposes pursuant to Internal Revenue
4 Code Section 642(c) during the taxable year.

5 (d) Partnerships.

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

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

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

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

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

22 (D) An amount equal to the amount of the capital
23 gain deduction allowable under the Internal Revenue
24 Code, to the extent deducted from gross income in the
25 computation of taxable income;

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

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

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

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

23 (D-7) An amount equal to the amount otherwise
24 allowed as a deduction in computing base income for
25 interest paid, accrued, or incurred, directly or
26 indirectly, (i) for taxable years ending on or after

1 December 31, 2004, to a foreign person who would be a
2 member of the same unitary business group but for the
3 fact the foreign person's business activity outside
4 the United States is 80% or more of the foreign
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. The addition modification
13 required by this subparagraph shall be reduced to the
14 extent that dividends were included in base income of
15 the unitary group for the same taxable year and
16 received by the taxpayer or by a member of the
17 taxpayer's unitary business group (including amounts
18 included in gross income pursuant to Sections 951
19 through 964 of the Internal Revenue Code and amounts
20 included in gross income under Section 78 of the
21 Internal Revenue Code) with respect to the stock of the
22 same person to whom the interest was paid, accrued, or
23 incurred.

24 This paragraph shall not apply to the following:

25 (i) an item of interest paid, accrued, or
26 incurred, directly or indirectly, to a person who

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

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

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

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

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

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

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

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

16 (D-8) An amount equal to the amount of intangible
17 expenses and costs otherwise allowed as a deduction in
18 computing base income, and that were paid, accrued, or
19 incurred, directly or indirectly, (i) for taxable
20 years ending on or after December 31, 2004, to a
21 foreign person who would be a member of the same
22 unitary business group but for the fact that the
23 foreign person's business activity outside the United
24 States is 80% or more of that person's total business
25 activity and (ii) for taxable years ending on or after
26 December 31, 2008, to a person who would be a member of

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

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

9 This paragraph shall not apply to the following:

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

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

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

26 (b) the transaction giving rise to the

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

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

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

24 (D-9) For taxable years ending on or after December
25 31, 2008, an amount equal to the amount of insurance
26 premium expenses and costs otherwise allowed as a

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

24 (D-10) An amount equal to the credit allowable to
25 the taxpayer under Section 218(a) of this Act,
26 determined without regard to Section 218(c) of this

1 Act;

2 and by deducting from the total so obtained the following
3 amounts:

4 (E) The valuation limitation amount;

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

8 (G) An amount equal to all amounts included in
9 taxable income as modified by subparagraphs (A), (B),
10 (C) and (D) which are exempt from taxation by this
11 State either by reason of its statutes or Constitution
12 or by reason of the Constitution, treaties or statutes
13 of the 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 (H) Any income of the partnership which
19 constitutes personal service income as defined in
20 Section 1348 (b) (1) of the Internal Revenue Code (as
21 in effect December 31, 1981) or a reasonable allowance
22 for compensation paid or accrued for services rendered
23 by partners to the partnership, whichever is greater;
24 this subparagraph (H) is exempt from the provisions of
25 Section 250;

26 (I) An amount equal to all amounts of income

1 distributable to an entity subject to the Personal
2 Property Tax Replacement Income Tax imposed by
3 subsections (c) and (d) of Section 201 of this Act
4 including amounts distributable to organizations
5 exempt from federal income tax by reason of Section
6 501(a) of the Internal Revenue Code; this subparagraph
7 (I) is exempt from the provisions of Section 250;

8 (J) With the exception of any amounts subtracted
9 under subparagraph (G), an amount equal to the sum of
10 all amounts disallowed as deductions by (i) Sections
11 171(a) (2), and 265(2) of the Internal Revenue Code,
12 and all amounts of expenses allocable to interest and
13 disallowed as deductions by Section 265(1) of the
14 Internal Revenue Code; and (ii) for taxable years
15 ending on or after August 13, 1999, Sections 171(a) (2),
16 265, 280C, and 832(b) (5) (B) (i) of the Internal Revenue
17 Code, plus, (iii) for taxable years ending on or after
18 December 31, 2011, Section 45G(e) (3) of the Internal
19 Revenue Code and, for taxable years ending on or after
20 December 31, 2008, any amount included in gross income
21 under Section 87 of the Internal Revenue Code; the
22 provisions of this subparagraph are exempt from the
23 provisions of Section 250;

24 (K) An amount equal to those dividends included in
25 such total which were paid by a corporation which
26 conducts business operations in a River Edge

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

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

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

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

23 (O) For taxable years 2001 and thereafter, for the
24 taxable year in which the bonus depreciation deduction
25 is taken on the taxpayer's federal income tax return
26 under subsection (k) of Section 168 of the Internal

1 Revenue Code and for each applicable taxable year
2 thereafter, an amount equal to "x", where:

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

10 (2) for taxable years ending on or before
11 December 31, 2005, "x" equals "y" multiplied by 30
12 and then divided by 70 (or "y" multiplied by
13 0.429); and

14 (3) for taxable years ending after December
15 31, 2005:

16 (i) for property on which a bonus
17 depreciation deduction of 30% of the adjusted
18 basis was taken, "x" equals "y" multiplied by
19 30 and then divided by 70 (or "y" multiplied by
20 0.429); and

21 (ii) for property on which a bonus
22 depreciation deduction of 50% of the adjusted
23 basis was taken, "x" equals "y" multiplied by
24 1.0.

25 The aggregate amount deducted under this
26 subparagraph in all taxable years for any one piece of

1 property may not exceed the amount of the bonus
2 depreciation deduction taken on that property on the
3 taxpayer's federal income tax return under subsection
4 (k) of Section 168 of the Internal Revenue Code. This
5 subparagraph (O) is exempt from the provisions of
6 Section 250;

7 (P) If the taxpayer sells, transfers, abandons, or
8 otherwise disposes of property for which the taxpayer
9 was required in any taxable year to make an addition
10 modification under subparagraph (D-5), then an amount
11 equal to that addition modification.

12 If the taxpayer continues to own property through
13 the last day of the last tax year for which the
14 taxpayer may claim a depreciation deduction for
15 federal income tax purposes and for which the taxpayer
16 was required in any taxable year to make an addition
17 modification under subparagraph (D-5), then an amount
18 equal to that addition modification.

19 The taxpayer is allowed to take the deduction under
20 this subparagraph only once with respect to any one
21 piece of property.

22 This subparagraph (P) is exempt from the
23 provisions of Section 250;

24 (Q) The amount of (i) any interest income (net of
25 the deductions allocable thereto) taken into account
26 for the taxable year with respect to a transaction with

1 a taxpayer that is required to make an addition
2 modification with respect to such transaction under
3 Section 203(a)(2)(D-17), 203(b)(2)(E-12),
4 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed
5 the amount of such addition modification and (ii) any
6 income from intangible property (net of the deductions
7 allocable thereto) taken into account for the taxable
8 year with respect to a transaction with a taxpayer that
9 is required to make an addition modification with
10 respect to such transaction under Section
11 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or
12 203(d)(2)(D-8), but not to exceed the amount of such
13 addition modification. This subparagraph (Q) is exempt
14 from Section 250;

15 (R) An amount equal to the interest income taken
16 into account for the taxable year (net of the
17 deductions allocable thereto) with respect to
18 transactions with (i) a foreign person who would be a
19 member of the taxpayer's unitary business group but for
20 the fact that the foreign person's business activity
21 outside the United States is 80% or more of that
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, but not to exceed the
4 addition modification required to be made for the same
5 taxable year under Section 203(d)(2)(D-7) for interest
6 paid, accrued, or incurred, directly or indirectly, to
7 the same person. This subparagraph (R) is exempt from
8 Section 250;

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

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

2 This subparagraph (S) is exempt from Section 250; and

3 (T) For taxable years ending on or after December
4 31, 2011, in the case of a taxpayer who was required to
5 add back any insurance premiums under Section
6 203(d)(2)(D-9), such taxpayer may elect to subtract
7 that part of a reimbursement received from the
8 insurance company equal to the amount of the expense or
9 loss (including expenses incurred by the insurance
10 company) that would have been taken into account as a
11 deduction for federal income tax purposes if the
12 expense or loss had been uninsured. If a taxpayer makes
13 the election provided for by this subparagraph (T), the
14 insurer to which the premiums were paid must add back
15 to income the amount subtracted by the taxpayer
16 pursuant to this subparagraph (T). This subparagraph
17 (T) is exempt from the provisions of Section 250.

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

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

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

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

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

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

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

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

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

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

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

8 (F) Cooperatives. In the case of a cooperative
9 corporation or association, the taxable income of such
10 organization determined in accordance with the
11 provisions of Section 1381 through 1388 of the Internal
12 Revenue Code, but without regard to the prohibition
13 against offsetting losses from patronage activities
14 against income from nonpatronage activities; except
15 that a cooperative corporation or association may make
16 an election to follow its federal income tax treatment
17 of patronage losses and nonpatronage losses. In the
18 event such election is made, such losses shall be
19 computed and carried over in a manner consistent with
20 subsection (a) of Section 207 of this Act and
21 apportioned by the apportionment factor reported by
22 the cooperative on its Illinois income tax return filed
23 for the taxable year in which the losses are incurred.
24 The election shall be effective for all taxable years
25 with original returns due on or after the date of the
26 election. In addition, the cooperative may file an

1 amended return or returns, as allowed under this Act,
2 to provide that the election shall be effective for
3 losses incurred or carried forward for taxable years
4 occurring prior to the date of the election. Once made,
5 the election may only be revoked upon approval of the
6 Director. The Department shall adopt rules setting
7 forth requirements for documenting the elections and
8 any resulting Illinois net loss and the standards to be
9 used by the Director in evaluating requests to revoke
10 elections. Public Act 96-932 is declaratory of
11 existing law;

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. 96-45, eff. 7-15-09; 96-120, eff. 8-4-09; 96-198,
7 eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff. 8-14-09;
8 96-835, eff. 12-16-09; 96-932, eff. 1-1-11; 96-935, eff.
9 6-21-10; 96-1214, eff. 7-22-10; 97-333, eff. 8-12-11; 97-507,
10 eff. 8-23-11; 97-905, eff. 8-7-12.)

11 (35 ILCS 5/224 new)

12 Sec. 224. Opportunity Scholarship Tax Credit.

13 (a) For taxable years ending on or after December 31, 2013,
14 a taxpayer shall be allowed a credit against the tax imposed
15 under subsections (a) and (b) of Section 201 of this Act for
16 contributions made to the Opportunity Scholarship Fund. The
17 credit allowed against the tax imposed by subsections (a) and
18 (b) of Section 201 of this Act shall be equal to 100% of the
19 contribution made to the Opportunity Scholarship Fund.
20 However, the maximum amount that may be credited is \$250,000 or
21 50% of a taxpayer's liability for the previous year, whichever
22 is more.

23 (b) For partners, shareholders of Subchapter S
24 corporations, and owners of limited liability companies, if the
25 liability company is treated as a partnership for purposes of

1 federal and State income taxation, there is allowed a credit
2 under this Section to be determined in accordance with the
3 determination of income and distributive share of income under
4 Sections 702 and 704 and Subchapter S of the Internal Revenue
5 Code.

6 (c) Any credit under this Section in excess of the tax
7 liability for the taxable year may be carried forward. A
8 taxpayer may elect to have the unused credit shown on the final
9 completed return carried over as a credit against the tax
10 liability for the following 5 taxable years or until it has
11 been fully used, whichever occurs first; provided that no
12 credit earned in a tax year ending prior to December 31, 2018
13 may be carried forward to any year ending on or after December
14 31, 2018.

15 If an unused credit under this Section is carried forward
16 to a given year from 2 or more earlier years, that credit
17 arising in the earliest year will be applied first against the
18 tax liability for the given year. If a tax liability for the
19 given year still remains, the credit from the next earliest
20 year will then be applied, and so on, until all credits have
21 been used or no tax liability for the given year remains. Any
22 remaining unused credit or credits then will be carried forward
23 to the next following year in which a tax liability is
24 incurred, except that no credit may be carried forward to a
25 year that is more than 5 years after the year in which the
26 expense for which the credit is given was incurred.

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.