

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.5180 Composite Returns: Overpayments and Underpayments

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.5180 Composite Returns: Overpayments and Underpayments

- a) When an authorized agent has made an error in determining the amount of any item of income, deduction, addition, subtraction or credit reported on a composite return, the authorized agent shall file an amended return to correct the error and claim a refund or credit, or pay the liability, for any person included on the composite return.
- b) For taxable years ending on or after December 31, 2008, a partnership or subchapter S corporation may report the changes in liabilities of its partners or shareholders and pay the resulting underpayments, on behalf of its partners and shareholders, whether or not a composite return was filed for the taxable year or any specific partner or shareholder was included on that composite return. A partnership or subchapter S corporation may claim a refund or credit of any amount it paid on behalf of its partners or shareholders under Section 100.5100, subsection (a) or this subsection, but may not claim a refund or credit of any amount paid to the Department by a partner or shareholder.
- c) If the amount of tax properly reportable on any return filed under Section 100.5100 or any original or amended return filed under subsection (a) or (b) is not reported and timely paid, the Department may issue a notice of deficiency to the authorized agent with respect to that underpayment and any associated penalties and interest and may issue notices of deficiency to the partners or shareholders, provided that:
 - 1) The Department may not collect the underpaid amount of tax, including associated penalties and interest, more than once, and, if claims for refund or credit of any amount collected more than once are timely filed by both a partner or shareholder and the authorized agent, any amount collected from that partner or shareholder in excess of the underpayment attributable to that partner or shareholder shall be refunded or credited to that partner or shareholder rather than to the authorized agent; and
 - 2) No penalty for failure to timely file a return or pay the amount of tax due shall be assessed against a partner or shareholder who had timely requested the authorized agent in writing to file composite original or amended returns and pay tax on his or her behalf under this Part, and had no knowledge that the authorized agent would not comply with that request prior to the earlier of the date of filing or the due date (including extensions) for filing the partner's or shareholder's return.

(Source: Added at 33 Ill. Reg. 2306, effective January 23, 2009)