

**Illinois Department of Revenue  
Regulations**

**Title 86 Part 100 Section 100.5215 Filing of Separate Unitary Returns (IITA Section 304(e))**

**Section 100.5215 Filing of Separate Unitary Returns (IITA Section 304(e))**

- a) Not every member of a unitary business group is eligible to join in the filing of a combined return and, for taxable years ending prior to December 31, 1993, joining in the filing of a combined return was elective.
- b) Each member of a unitary business group who is subject to Illinois income tax and who properly does not join in the filing of a combined return must file a separate return, and compute its business income apportionable to Illinois by computing the base income of the unitary business group in accordance with Section 100.5270(a)(1) and by multiplying the business income included in the base income by an apportionment fraction computed by using the Illinois apportionment factor or factors applicable to the return filer under IITA Section 304 and the everywhere factor or factors of the entire unitary business group.
- c) Each member of a unitary business group who is subject to Illinois income tax and who properly does not join in the filing of a combined return shall separately determine the amount of its nonbusiness income allocable to Illinois, the amount of the exemption allowed to it under IITA Section 204, the amounts of net loss carryovers, and the amounts of any credits and credit carryforwards to which it is entitled, without regard to the income, deductions, credits and other tax items of other members of the unitary business group, except to the extent those items enter into the computation of business income of the member apportioned to Illinois under subsection (b).
- d) Examples. The following examples illustrate the provisions of this Section.
  - 1) **EXAMPLE 1:** Individual A is a nonresident and is the sole shareholder of Corporation S, a subchapter S corporation, and Corporation C, a subchapter C corporation. Corporation S and Corporation C are engaged in a unitary business within the meaning of IITA Section 1501(a)(27). Corporation S' taxable year is the calendar year. Corporation C's taxable year is the fiscal year ending June 30. For its taxable year ending 12/31/14, Corporation S has business income (as defined in Section 100.3010(a)(2)) of \$125,000, Illinois sales of \$750,000, and total sales of \$1,000,000. For its taxable year ending 6/30/14, Corporation C has business income of \$75,000, Illinois sales of \$40,000, and total sales of \$500,000. Under subsection (b), Corporation S must file a separate return using the combined apportionment method to determine its business income apportionable to Illinois. Combined apportionment must be computed on the basis of Corporation S' taxable year. Because Corporation C's taxable year differs, Corporation S may elect to apply any of the methods available under Section 100.5265 by treating S' taxable year as the common taxable year. Assume S elects to use method 3 to determine combined business income for the common taxable year ending 12/31/14. S' business income apportionable to Illinois is computed as follows:  $\$200,000 \times (\$750,000/\$1,500,000) = \$100,000$ .

Corporation C must also file a separate return computing its business income apportionable to Illinois by applying the combined apportionment method. Corporation C may elect to apply any of the methods available under Section 100.5265 to determine the amount of business income and apportionment factors of Corporation S to be used in computing Corporation C's business income apportioned to Illinois.

- 2) **EXAMPLE 2:** Assume that Corporation A owns a 91% interest, Corporation B a 4% interest and nonresident Individual Y a 5% interest, in P, a partnership. Corporation A and P are engaged in a unitary business within the meaning of IITA Section 1501(a)(27). Because Corporation A owns more than 90% of P, the alternative apportionment provisions for unitary partners and partnerships in Section 100.3380(d)(2) do not apply and P shall be treated as a member of Corporation A's unitary business group for all purposes. (See Section 100.3380(d)(4).) Corporation A, Corporation B, Individual Y, and P all use the calendar year as their taxable year. For taxable year 12/31/14, Corporation A has business income of \$300,000 (not including any business income from P), Illinois sales of \$450,000, and total sales of \$600,000. P has business income of \$100,000, Illinois sales of \$30,000, and total sales of \$400,000. There are no intercompany sales. Under Section 100.3380(d)(4), substantially all of the interests in P are owned or controlled by members of the same unitary business group, so that P is treated as a member of the unitary business group for all purposes. Because Corporation A's share of the business income of P will be eliminated in combination, combined business income is \$400,000. Under subsection (b), Corporation A and P are required to file separate returns in which business income apportionable to Illinois is computed by applying the combined apportionment method under IITA Section 304(e). Under the combined apportionment method, P's business income apportionable to Illinois is computed by combining its business income and total sales everywhere with the business income and total sales everywhere of A. P's business income apportioned to Illinois is thus \$12,000, computed as follows:  $\$400,000$  in combined business income  $\times$  ( $\$30,000$  of P's Illinois sales/ $\$1,000,000$  of combined total sales) =  $\$12,000$ . Under IITA Section 304(e), Corporation A's business income apportionable to Illinois is  $\$180,000$ , computed as follows:  $\$400,000$  in combined business income  $\times$  ( $\$450,000$  of Corporation A's Illinois sales/ $\$1,000,000$  of combined total sales) =  $\$180,000$ . In addition, under IITA Section 305(a), Corporation A must include its  $\$10,920$  distributive share (i.e.,  $91\% \times \$12,000$ ) of the business income of P apportioned to Illinois in its Illinois net income. Also, Individual Y must include her  $\$600$  distributable share of the business income of P apportioned to Illinois in her Illinois net income (i.e.,  $5\% \times \$12,000$ ), and Corporation B must include its  $\$480$  distributable share of the business income of P apportioned to Illinois in its Illinois net income (i.e.,  $4\%$  of  $\$12,000$ ). Finally, P computes Illinois personal property tax replacement income tax on net income of  $\$600$ , computed as follows:  $\$400,000 - \$380,000$  ( $95\%$  of its base income distributable to partners subject to replacement tax) =  $\$20,000$ , and  $\$20,000 \times (\$30,000/\$1,000,000) = \$600$ .
- 3) **EXAMPLE 3:** Assume the same facts as Example 2, except that P's business income is a loss of  $(\$100,000)$ . Under the combined apportionment method, P's business income apportionable to Illinois is computed by combining its business loss and total sales everywhere with the business income and total sales everywhere of A. P's business income apportioned to Illinois is thus  $\$6,000$ ,

computed as follows:  $\$200,000 \times (\$30,000/\$1,000,000) = \$6,000$ . Under IITA Section 304(e), Corporation A's business income apportionable to Illinois is \$90,000, computed as follows:  $\$200,000 \times (\$450,000/\$1,000,000) = \$90,000$ . In addition, Corporation A must include its \$5,460 distributive share of the business income of P apportioned to Illinois in its Illinois net income. Individual Y must include her \$300 distributable share of the business income of P apportioned to Illinois in her Illinois net income (i.e.,  $5\% \times \$6,000$ ), and Corporation B must include its \$240 distributable share. P computes Illinois personal property tax replacement income tax of \$300, computed as follows:  $\$200,000 - \$190,000 = \$10,000$ , and  $\$10,000 \times (\$30,000/\$1,000,000) = \$300$ .

(Source: Amended at 40 Ill. Reg. 15575, effective November 2, 2016)