

**Illinois Department of Revenue  
Regulations**

**Title 86 Part 100 Section 100.5270 Computation of Combined Net Income and Tax**

**TITLE 86: REVENUE**

**PART 100  
INCOME TAX**

**Section 100.5270 Computation of Combined Net Income and Tax**

a) Determination of base income. The combined base income shall be determined by first computing the combined group's current year combined taxable income and then modifying this amount by the combined group's combined Illinois addition and subtraction modification amounts.

1) Combined net income. The designated agent will determine combined base income by treating all members of the unitary business group (including ineligible members) as if they constituted a federal consolidated group and by applying the federal regulations for determining consolidated taxable income, except that the separate return limitation year provisions and the limitations on consolidation of life and non-life companies in Treasury Reg. Section 1.1502-47 shall not apply. (See Treasury Reg. Section 1.1502-11, 26 CFR 1.1502-11.) A consolidated net operating loss deduction, as defined in Treasury Reg. Section 1.1502-21, 26 CFR 1.1502-21, shall be added back to taxable income, in whole or in part, in accordance with subsections (a)(2), (4) and (5) below. Pursuant to IITA Section 203(e)(2)(E), combined base income shall be determined as if the election provided by Section 243(b)(2) of the Internal Revenue Code had been in effect.

Example 1. Corporations A and B properly make an election under IITA Section 502(e), or are properly required to file a combined return under IITA Section 502(e). On a separate return basis, A's federal taxable income would be a loss of (\$500). This amount does not include an excess capital loss of \$75 pursuant to Internal Revenue Code Section 1211(a). B's federal taxable income is \$1,000 of which \$100 is capital gain. As a result of applying Treasury Reg. Section 1.1502-11 and Section 1.1502-22 (26 CFR 1.1502-22), the combined federal taxable income for A and B is \$425.

2) Combined Illinois net loss. The combined group's current year combined taxable income may be less than zero, in which case it shall be determined by applying the provisions of Treasury Reg. 1.1502-21(f) (consolidated net operating loss) to the unitary business group.

Example 2. Same facts as Example 1 in subsection (a)(1) above except that Corporation C has also properly joined in the election, or is properly required to join in the combined return filing, and its federal taxable income is a loss of (\$800). If there are no addition or subtraction modifications and all of the

group's base income is apportioned to Illinois, the group's combined Illinois net loss for the taxable year will be (\$375).

- 3) Carrybacks and carryovers. Carrybacks and carryovers, if any, shall be determined for each member and not for the group. A pro rata share of the loss is attributable to each of the loss members. For Illinois net losses that occurred in taxable years ending on or after December 31, 1986, the amount of any carryback or carryover shall be determined by applying Sections 100.2340, 100.2350(c)(3) and (c)(4) of this Part. For federal net operating losses that occurred in taxable years ending prior to December 31, 1986, the amount of any carryback or carryforward shall be determined by applying Section 100.2230 of this Part.

Example 3. Same facts as Example 2 in subsection (a)(2) above. Assuming the taxable year ends prior to December 31, 1986, the group's combined net operating loss of (\$375) will be divided between A and C as follows for purposes of carryback and carryover:

$$\text{Corp. A: } 500/1,300 \times (375) = 144$$

$$\text{Corp. C: } 800/1,300 \times (375) = 231$$

- 4) NOL addition modification of federal net operating loss deductions from a loss incurred in a taxable year ending on or after December 31, 1986. IITA Section 203(b)(2)(D) requires that the amount of any federal net operating loss deduction taken in arriving at taxable income for federal tax purposes, other than from a loss in a taxable year ending prior to December 31, 1986, shall be added back to taxable income in the computation of base income. See Section 100.2320(a) of this Part.
- 5) NOL addition modification of pre December 31, 1986, federal losses. IITA Section 203(b)(2)(E) requires an addition modification subject to two limitations for taxable years in which a federal net operating loss carryforward from a taxable year ending prior to December 31, 1986, is an element of taxable income. Consequently, each member allowed to carryback or forward a portion of the group's combined net operating loss from a year in which that combined loss was used to offset a portion of the group's combined excess addition modifications must take as an addition modification in the carryback or carryover year its respective share of the NOL addition modification required by IITA Section 203(b)(2)(E). In accordance with Section 100.2240 of this Part, the respective shares shall be determined in the same manner as the determination of the amount of NOL carryback or carryover.

Example 4. Same facts as Example 2 in subsection (a)(2) above except that the group had combined excess addition modifications of \$100. This amount will be divided among the loss members as follows:

$$\text{Corp. A: } 500/1,300 \times 100 = 38$$

$$\text{Corp. C: } 800/1,300 \times 100 = 62$$

b) Combined base income allocable to Illinois. Combined base income allocable to Illinois is the sum of the combined business income or loss apportioned to Illinois plus the combined nonbusiness income or loss allocated to Illinois plus the combined nonunitary partnership income or loss allocated to Illinois, less the combined net loss deduction.

1) Combined business income apportionable to Illinois. In the case of a combined group required to apportion its business income using the three-factor (payroll, property and sales) formula under Section 304(a) of the IITA, the designated agent will apportion the unitary business group's combined business income by using the total Illinois payroll, property and sales of each member of the combined group and the total everywhere payroll, property and sales of each member of the unitary business group (including ineligible members). In the case of groups composed exclusively of one-factor apportionment taxpayers (financial, insurance, or transportation), the unitary business group's combined business income will be apportioned by using the combined group's total Illinois financial, insurance, or transportation factors and the total everywhere factors of the unitary business group. Items of income and deduction arising from transactions between members of the unitary business group must be eliminated whenever necessary to avoid distortion of the denominators used by the unitary business group in calculating apportionment factors, or of the numerators used by the combined group or by ineligible members of the group in calculating apportionment factors.

A) Example 1:

- i) Corporations A, B, and C constitute a unitary business group. Corporations A and B are eligible to make the election under IITA Section 502(e) for tax years ending before December 31, 1993. However, under Public Law 86-272, Corporation C is not taxable in Illinois.
- ii) Based on these facts, if the election to be treated as one taxpayer is made, the combined Illinois sales factor must be determined by dividing the combined group's total combined Illinois sales (that is, excluding any sales of Corporation C shipped to purchasers in Illinois) by the total combined sales of the unitary business group everywhere. If the same facts are applied to a tax year ending on or after December 31, 1993, the same result will occur in the mandatory combined return situation.

B) Example 2:

- i) Same facts as in Example 1, except these additional facts also exist. Under Public Law 86-272, Corporations B and C are taxable in South Carolina, but corporation A is not.
- ii) Based on these facts, if the election to be treated as one taxpayer is made, or the taxpayers are required to be treated as one taxpayer, the combined Illinois sales factor must be determined by

dividing the combined group's total Illinois sales (including any sales of Corporation A shipped to purchasers in South Carolina from any place of storage in Illinois, i.e., throwback sales) by the total sales of the unitary business group everywhere.

- 2) Combined nonbusiness and nonunitary partnership income allocable to Illinois. The designated agent shall compute the amount of combined nonbusiness income or loss allocable to Illinois by first determining the amount for each member of the combined group and then combining these amounts. Similarly, the designated agent shall compute the amount of combined nonunitary partnership income or loss allocable to Illinois by first determining the amount for each member and then combining these amounts.
  - 3) Combined Illinois net loss deduction. The designated agent shall compute the combined Illinois net loss deduction for losses originating in tax years ending on or after December 31, 1986 by determining the amount of deduction available for each member of the combined group in accordance with Sections 100.2330, 100.2340 and 100.2350 of this Part and then by combining these amounts.
- c) Combined exemption. Under the election or requirement to be treated as one taxpayer, there is one exemption per combined return. The designated agent shall compute the combined exemption by multiplying \$1,000 by a fraction, the numerator of which is combined base income allocable to Illinois and the denominator of which is the group's combined base income. The exemption amount for members of unitary groups not making the election, or subject to the requirement, and for members of unitary groups ineligible to make the election, or not subject to the requirement, is computed by multiplying \$1,000 by a fraction, the numerator of which is that member's base income allocable to Illinois, and the denominator of which is the group's combined base income.
- d) Combined credits
- 1) Applicability of credits. The designated agent will compute any credit allowed by the IITA based on the combined activities of the members of the combined group and such credit will be applied against the combined liability of the combined group.
  - 2) Credits based on members' activities. The investment credits provided in IITA Sections 201(e), (f) and (h) and 206(b) are available when certain property is purchased and placed in service by a taxpayer. The combined group shall be entitled to a combined credit, assuming the other statutory or regulatory requirements applicable to the given credit are satisfied, even if one of the members purchases the qualified property and another member uses the property in a qualified manner.
  - 3) Effective January 1, 1994, the investment credit provided in IITA Section 201(e) is allowed for a taxpayer who is *primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing*. In the case of a combined group, the determination of eligibility shall be made for the combined group as a whole, rather than for any individual member. The determination of whether a

combined group is primarily engaged in a qualifying activity shall be made by applying the 50% of gross receipts test in Section 100.2101(f) of this Part by taking into account the gross receipts of only the eligible members of the combined group. Gross receipts of corporations which would otherwise be members of the combined group, but which have no taxable presence in Illinois or which cannot be combined for any other reason, are not considered in this determination. In determining whether a combined group is primarily engaged in retailing, gross receipts from transactions between eligible members of the combined group shall be eliminated from both the numerator and the denominator of the computation. In determining whether a combined group is primarily engaged in manufacturing or in the mining of coal or fluorite, gross receipts from manufacturing or the mining of coal or fluorite shall include:

- A) gross receipts from sales of products manufactured or coal or fluorite mined by one eligible member of the combined group to another eligible member of the combined group for use or consumption, and not for resale, provided, however, that the amount of such gross receipts shall be subject to adjustment by the Department under the provisions of Section 404 of the IITA; and
  - B) gross receipts from sales to persons outside the combined group by one eligible member of the combined group of items manufactured, or coal or fluorite mined, by another eligible member of the combined group.
- 4) The additional credit provided in IITA Section 201(e) and the credit provided in Section 201(g) are based on specified increases in employment in Illinois. For purposes of determining entitlement to these credits during a combined-return year, the increase in employment shall be determined with respect to the employment of all members of the combined group in Illinois and not an individual member's employment. For purposes of determining the increase in employment in Illinois for a common taxable year, the Illinois employment of all taxpayers who are members of the combined group during that common taxable year shall be used; that is, both prior and current year Illinois employment of current members who were not members of the combined group in the prior year shall be included in the determination, while prior and current year Illinois employment of taxpayers who ceased to be members of the combined group during the current or prior year shall be excluded. The application of this subsection (d)(4) is illustrated by the following examples:

Example 1. Corporations A, B and C were members of a unitary business group which elected to file a combined return for 1989. Corporation D was not a member of the ABC combined group in 1989, but becomes a member of combined group ABCD filing a combined return for 1990.

During 1989, Corporations A, B and C employed a total of 150 persons in Illinois and Corporation D employed 50 people in Illinois, for a total of 200. During 1990, Corporations A, B and C employed 100 persons in Illinois and Corporation D employed 100 persons in Illinois, again for a total of 200.

IITA Section 201(e), which provides for a Replacement Tax Investment Credit for qualified property placed in service by the taxpayer during the year, allows an additional 0.5% credit for such property to a taxpayer whose Illinois employment has increased by at least 1% over its Illinois employment in the immediately preceding year. Combined group ABCD cannot qualify for the additional 0.5% credit during 1990 because the combined Illinois employment of Corporations A, B, C and D remained unchanged between 1989 and 1990. Because eligibility is determined at the combined group level, no additional credit can be allowed for qualified property placed in service by Corporation D in 1990, even though Corporation D's Illinois employment doubled between 1989 and 1990.

Example 2. Corporations P, Q, R and S filed a combined Illinois return for calendar year 1990. On January 1, 1991, Corporation S was sold to an unrelated purchaser. Corporations P, Q and R filed a combined Illinois return for calendar year 1991.

Combined group PQRS employed 400 people in Illinois during 1990, 100 of whom were actually employees of Corporation P and 100 of whom were actually employees of Corporation S. Combined group PQR employed 350 people in Illinois during 1991, 50 of whom were actually employees of Corporation P.

Combined group PQR can qualify for the additional 0.5% Replacement Tax Investment Credit allowed under IITA Section 201(e) for qualified property placed in service during 1990 because the Illinois employment of the three members of the combined group increased from 300 in 1989 to 400 in 1990. Because the eligibility is determined at the combined group level, property placed in service by Corporation P during 1990 may qualify for the additional 0.5% credit even though Corporation P's Illinois employment actually decreased.

Example 3. IITA Section 201(g) allows a Jobs Tax Credit equal to \$500 per eligible employee hired to work in an enterprise zone during a taxable year. The taxpayer must hire 5 or more eligible employees during the taxable year in order to qualify for the credit. The credit is taken in the taxable year following the year the employee is hired. Corporations W, X, Y and Z filed a combined Illinois return for calendar year 1990. Corporation Z was sold to an unrelated purchaser on December 31, 1990. Corporations W, X and Y filed a combined return for 1991.

During 1990, WXYZ hired 5 eligible employees to work in an enterprise zone, 3 of whom were actually hired by Corporation Z.

Combined group WXY may claim a Jobs Tax Credit of \$2,500 for 1991 because it hired 5 eligible employees during 1990. The fact that Corporation Z, which hired 3 of the employees, left the combined group at the beginning of 1991 does not alter the fact that the combined group earned the Jobs Tax Credit nor entitle Corporation Z to any portion of the credit for its separate company return for 1991.

- 5) The research and development credit provided in IITA Section 203(j) is based on increasing research activities in this State (see Section 100.2160 of this Part).

For purposes of determining entitlement to the credit during a combined-return year, the increase in research activities shall be determined with respect to research activities conducted by all members of the combined group in Illinois and not an individual member's research activities. The following series of examples illustrate the application of the research and development credit in combined return situations involving Corporations A, B and C that incurred the following expenses for qualified research activities in Illinois:

	1990	1991	1992	1993
Corp. A	50,000	50,000	50,000	0
Corp. B	25,000	25,000	100,000	200,000
Corp. C	75,000	125,000	100,000	100,000
	<hr/> 150,000	200,000	250,000	300,000

- A) Example 1. A, B, and C filed combined returns for the years ending December 31, 1990, December 31, 1991, December 31, 1992 and December 31, 1993. The proper amount of the Research and Development Credit for the year ending December 31, 1993 is determined based upon the combined activities on the combined return and is calculated as follows:

Total qualified expenditures for 1993	300,000
Average qualified expenditures for 1990-92	200,000
Excess of 1993 expenditures over base period	100,000
Research and development credit for 1993	6,500

- B) Example 2. A and B filed a combined return for the year ending December 31, 1990. C filed a separate return for the year ending December 31, 1990. A purchased the common stock of C on January 1, 1991. A, B and C filed combined returns for the years ending December 31, 1991, December 31, 1992 and December 31, 1993. The \$75,000 of expenses for qualified research activities in Illinois incurred by C for the year ending December 31, 1990 should be included in the calculation of the average qualified expenditures for the base period. The credit for the combined return would be calculated as follows:

Total qualified expenditures for 1993	300,000
Average qualified expenditures for 1990-92	200,000
Excess of 1993 expenditures over base period	100,000
Research & Development Credit for 1993	6,500

- C) Example 3. A, B and C filed combined returns for the years ending December 31, 1990, December 31, 1991 and December 31, 1992. On January 1, 1993, A sold the common stock of C to P (an unrelated

corporation). For the year ending December 31, 1993, C was included in the combined return filed by P. In determining the proper amount of the Research and Development Credit for the combined return filed by A and B for the year ending December 31, 1993, the expenses for qualified research activities in Illinois incurred by C of \$75,000, \$125,000 and \$100,000 for the years ending December 31, 1990, December 31, 1991 and December 31, 1992, respectively, may not be included in the calculation of the average qualified expenditures for the base period for A and B for the year ending December 31, 1993. The credit for the combined return for A and B for the year ending December 31, 1993 would be calculated as follows:

Total qualified expenditures for 1993	200,000
Average qualified expenditures for 1990-92	100,000
Excess of 1993 expenditures over base period	100,000
Research & Development Credit for 1993	6,500

- 6) Credit carryforward. Any combined credit carryforward shall be available to the combined group for the next combined-return year. For purposes of the credits allowed with respect to certain qualifying property under IITA Sections 201(e), (f), and (h) and 206(b), where a member becomes ineligible to join in the election, or is no longer required to be part of the combined return, the credit carryforward shall be available to the remaining members if such members continue to both own and use the property for which the credit was claimed in a qualifying manner for 48 months after the placed-in-service date. The credit carryforward shall be available to the former member that has become ineligible if that former member both owns and uses the property for which the credit was claimed in a qualifying manner for the remainder of the 48-month period after the placed-in-service date. If a credit carryforward is available to the former member that has become ineligible, the amount of the carryforward is equal to the combined unused credit multiplied by a fraction, the numerator of which is the credit attributable to the qualified property of such former member for the combined unused credit year, and the denominator of which is the qualified property of the combined group for such unused credit year.

Example 1. In 1985, Corporation A purchased \$300,000 of eligible property, \$200,000 of which was used by A and \$100,000 of which was transferred to and used by Corporation B. A and B filed a combined return for that year which showed an income tax liability of \$1,000 and an investment credit of \$1,500. The group's unused credit was \$500. In 1987, B left the group, and during that year it owned and continued to use the \$100,000 of eligible property. Its credit carryforward would be computed as follows:

$$\$500 \times \$100,000 / \$300,000 = \$166.67$$

- 7) Recapture. For purposes of credits which are recaptured when property ceases to be qualified property or is moved out of Illinois or when property is moved outside of an enterprise zone within 48 months of the placed-in-service date, the

members of the combined group are responsible for the recapture of any personal property replacement tax or income tax.

Example 2. Same facts as in the Example 1 in subsection (d)(6) above except in 1987 Corporation A transferred its eligible property (originally purchased for \$200,000, in 1985) to Corporation B. Corporation B was acquired by Corporation C in 1987 and, immediately afterward, B sold all the eligible property (originally purchased for a total of \$300,000) to an unrelated third party. B and C file a combined return for that year and they must increase their tax liability by \$1,000 due to the credit that was allowed on the combined return filed by A and B in 1985.

- e) **Ineligible members.** If a unitary business group contains one or more ineligible members (i.e., an S Corporation or, for years ending prior to December 31, 1987, a corporation with a different taxable year), the ineligible members shall file separate unitary returns. In the separate unitary return, the apportionment percentage of any such ineligible member shall be determined by dividing the Illinois factor or factors of that member by the combined everywhere factor or factors of all members of the unitary business group. The apportionment percentage shall then be multiplied by the combined business income of the unitary business group to determine the business income of such ineligible apportionable to Illinois. The taxable income of the members that joined in the election shall be their combined taxable income as determined under subsection (a)(1) of this Section. If a corporation is ineligible because it has a different taxable year, it shall use either method of accounting available to part-year members and set forth in subsection (f)(2) of this Section. If two or more corporations are ineligible because they have an accounting period that is different from other members making the election, they may elect to file their own combined return if they have the same taxable year. The foregoing rule also applies in the case of erroneous inclusion of a member in a group otherwise required to file a combined return.
  
- f) **Part-year members**
  - 1) **General rule.** If a corporation becomes a member of a unitary business group after the beginning of the combined return year or ceases to be a member of the unitary business group during the combined return year, two tax returns will be affected for that taxable year. The combined return shall include the separate company items of such corporation for the part of the year it was a member of the unitary business group. Separate company items of a part-year member for any portion of its taxable year prior to the date it joins or after the date it leaves the unitary business group shall either be reported in a short-year separate return filed by such part-year member (if it is subject to Illinois income tax during that period) or included in any combined return filed on behalf of a unitary business group to which such part-year member belongs during that portion of the year.
  
  - 2) **Accounting.** The part-year member shall use either Method 1 or Method 2 (described in Section 100.5265(b) of this Part) to determine its separate company items for the portion of the year before it becomes a member and the portion of the year after it becomes a member of the combined group.

(Source: Added at 26 Ill. Reg. 13237, effective August 23, 2002)