

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2665 Subtraction for Payments to an Attorney-in-Fact (IITA 203 Section (b)(2)(R))
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TITLE 86: REVENUE

**PART 100
INCOME TAX**

SUBPART G: BASE INCOME OF CORPORATIONS

Section 100.2665 Subtraction for Payments to an Attorney-in-Fact (IITA Section 203(b)(2)(R))

- a) Under an interinsurance or reciprocal insurance arrangement, the members or subscribers are liable to reimburse each other for insured losses. The operations of an interinsurer or reciprocal insurer are conducted by an attorney-in-fact. Interinsurers and reciprocal insurers are subject to federal income tax as mutual insurance companies. (See Internal Revenue Code section 832(f).) Under IRC section 835, an interinsurer or reciprocal insurer can elect to limit its deduction for fees paid to its attorney-in-fact to the amount of deductible expenses incurred by the attorney-in-fact that are attributable to those fees. An interinsurer or reciprocal insurer that makes this election is allowed a credit equal to the federal income tax liability of its attorney-in-fact with respect to the fees received from the interinsurer or reciprocal insurer.

- b) The effect of making an election under IRC section 835 is that the net income of the attorney-in-fact related to the interinsurer or reciprocal insurer that made the election is included in the federal taxable income of both the attorney-in-fact and the interinsurer or reciprocal insurer, but the interinsurer or reciprocal insurer is allowed a federal credit that eliminates the double taxation of that income. Prior to the enactment of PA 91-205, that income would be included in the base incomes of the interinsurer or reciprocal insurer and of the attorney-in-fact. On and after July 20, 1999 (the effective date of PA 91-205), in the case of an attorney-in-fact with respect to whom an interinsurer or a reciprocal insurer has made the election under IRC section 835, the attorney-in-fact is allowed to subtract *an amount equal to the excess, if any, of the amounts paid or incurred by that interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to that interinsurer or reciprocal insurer with respect to the attorney-in-fact under IRC section 835 for the taxable year.* (IITA Section 203(b)(2)(R)) The provisions of IITA Section 203(b)(2)(R) are exempt from automatic sunset under the provisions of Section 250.

(Source: Added at 42 Ill. Reg. 17852, effective September 24, 2018)