

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.2668 Subtraction for Dividends from Controlled Foreign Corporations (IITA Section 203(b)(2)(Z))
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TITLE 86: REVENUE

**PART 100
INCOME TAX**

SUBPART G: BASE INCOME OF CORPORATIONS

Section 100.2668 Subtraction for Dividends from Controlled Foreign Corporations (IITA Section 203(b)(2)(Z))

- a) Under Internal Revenue Code section 965(e), the taxable income of a shareholder of a controlled foreign corporation (CFC) may not be less than the "nondeductible CFC dividends" received from that CFC, as defined in IRC section 965(e)(3). If the shareholder's federal net income would otherwise be less than the nondeductible CFC dividends, the shareholder carries over the excess of its nondeductible CFC dividends over the amount of its federal taxable income computed without regard to IRC section 965(e) as a net operating loss under IRC section 172.

- b) IITA Prior to PA 97-507. Under IITA Section 203(b), the base income of a corporation for a taxable year is its taxable income for the year, as properly reportable for federal income tax purposes, after modifications in IITA Section 203(b)(2). Under IITA Section 203(b)(2)(D), any net operating loss deduction claimed by a corporation under IRC section 172 for a loss incurred in a taxable year ending on or after December 31, 1986, is added back to the corporation's taxable income. Under IITA Section 207, the net loss of a taxpayer (other than an individual) for a taxable year is its taxable income for the year, as properly reportable for federal income tax purposes, after modifications in IITA Section 203(b)(2). As a result, a corporation whose nondeductible CFC dividends exceeded its federal taxable income computed without regard to IRC section 965(e) for a taxable year would receive no tax benefit from the deductions or losses that caused the excess, because those deductions or losses could not reduce its federal taxable income in the year incurred and any resulting IRC section 172 deduction would be added back to taxable income in the carryover years under IITA Section 203(b)(2)(D).

- c) In order to allow a corporation the benefit of deductions otherwise disallowed by IRC section 965(e) and IITA Section 203(b)(2)(D), PA 97-507 added IITA Section 203(b)(2)(Z) to allow a subtraction for *the difference between the nondeductible controlled foreign corporation dividends under IRC section 965(e)(3) over the taxable income of the taxpayer, computed without regard to IRC section 965(e)(2)(A), and without regard to any net operating loss deduction.* IITA Section 203(b)(2)(Z) applies to all taxable years, and is exempt from automatic sunset under the provisions of Section 250.

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