

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 9715 Transportation Companies (IITA Section 304(d))

CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART EE: DEFINITIONS

Section 100.9715 Transportation Companies (IITA Section 304(d))

- a) Transportation company. The term "transportation company" means any person deriving 80 percent or more of its gross income, averaged over a period of three years, which includes the current tax year and the immediately preceding two tax years, from furnishing transportation services and ancillary services.
 - 1) For purposes of this subsection (a), gross income shall include only amounts that are received in the ordinary course of the person's regular business activities and that are included in net income under the IITA. For purposes of determining whether a person is predominantly engaged in the business activities of a transportation company when a person is formed in a current tax year or in its immediately preceding tax year, only the years for which the person is in existence will be used in determining whether the person meets the 80 percent test.
 - 2) The treatment of items of income that are not included in apportionable business income is not affected by the classification of the person as a transportation company, and those items are therefore disregarded for purposes of the gross income test. For example, interest received on United States Treasury obligations is excluded from Illinois base income and, accordingly, is disregarded for purposes of determining whether the business income of a person should be apportioned using the transportation company formula. Similarly, dividends received by a corporation shall be disregarded to the extent the dividends are deducted from federal taxable income under 26 USC 243 or are subtracted in the computation of Illinois base income under IITA Section 203(b)(2)(O).
 - 3) In the case of a sale or disposition of any asset (whether tangible or intangible, and whether the asset is part of the person's stock in trade) that occurs in the ordinary course of a person's regular business activities, only the net gain shall be taken into account for purposes of the gross income test. Thus, for example, gross income from the sale of inventory is equal to its gross receipts minus the cost of goods sold, while gross income from the sale of stock is equal to the sales price minus any brokerage commission and minus the person's basis in the stock. If gross income from a transaction is negative, the loss shall not be considered for purposes of the gross income test.

- 4) Income that results from transactions outside the ordinary course of a person's regular business activities is not taken into account for the purposes of the gross income test. For example, amounts received from the sale of a person's headquarters shall be disregarded, whether or not the gain is characterized as business income.
 - 5) In applying the gross income test, a person's transactions with a person to which it is related (including transactions with a member of the person's unitary business group that are eliminated in combination under Section 100.3320(d) of this Part) shall be treated in the same manner as transactions between the person and an unrelated person, subject in all cases to the authority of the Department under IITA Section 404 to make such adjustments as are necessary to properly reflect each party's Illinois business activities.
- b) Transportation services. The term "transportation services" means the movement of freight or passengers by air, land or water, or the movement of liquid or gaseous substances by pipeline, performed by the taxpayer. Transportation services include intermodal services, which means the movement of freight by more than one form of carrier during a single movement without handling the freight itself when changing modes. For purposes of this Section, "freight" means any item, other than an individual passenger, that is transported for consideration.
- c) Ancillary services. "Ancillary services" means those services generally provided to customers in connection with the provision of transportation services, and that are provided by the same person who is performing the connected transportation service. Ancillary services include, but are not limited to:
- 1) transfer of freight from one bulk packaging to another bulk packaging or between a bulk packing and a non-bulk packaging for purposes of continuing the movement of the freight in commerce;
 - 2) with regard to railroads, the in-transit sale of food or beverages, switching, transportation detention charges, and packing and warehousing;
 - 3) with regard to airlines, the in-flight rental of pillows, blankets or headsets, the in-flight sale of food or beverages, baggage services, and changing or cancelling reservations; and
 - 4) with regard to trucking companies:
 - A) packing and warehousing; and
 - B) notwithstanding the requirement that ancillary services must be provided by the same person who is performing the connected transportation service, furnishing vehicles with drivers (including owner-operators) to another transportation company under a lease or similar arrangement.

(Source: Added at 42 Ill. Reg. 19190, effective October 12, 2018)