

Illinois Department of Revenue
1500 South Ninth Street
Springfield, Illinois 62708

INFORMATION BULLETIN FY83-9

TO: All Corporate and Replacement Tax Accounts

SUBJECT: Amendments to the Illinois Income Tax Act

Public Act 82-1029, enacted on December 15, 1982 and effective for all taxable years ending on or after December 31, 1982, amends the Illinois Income Tax Act in several respects, particularly with respect to the taxation of unitary business groups. We are issuing this bulletin to provide information relating to these new provisions since most of our 1982 income tax forms and instructions had already been prepared by the enactment date of the new law.

However, we delayed the preparation of two forms while awaiting final action on the legislation. One of those forms, Schedule J, is attached to this bulletin. The other, Schedule UB (used by taxpayers who are members of a unitary business group), will be available on or before April 1, 1983 by request. If, after reading this bulletin, you determine that you are part of a unitary business group or if you need more information regarding filing requirements, please send us the enclosed business reply card. As soon as the Schedule UB is available, we will mail it to you.

NOTE: Any attempt to use (for tax years ending on or after December 31, 1982) a version of Schedule UB other than as provided in the Schedule UB package will result in an imperfect return and may constitute a failure to file. For tax years ending before December 31, 1982, previous versions are acceptable.

If the due date of your return would require the filing of such return prior to the availability of the Schedule UB, you may wish to read the instructions for Form IL-505-B (Application for Extension of Time to File) in order to determine if you should apply for a filing extension. You may request Form IL-505-B From the Illinois Department of Revenue, P.O. Box 3545, Springfield, IL, IL 62708.

P.A. 82-1029 amends the Illinois Income Tax Act as follows:

UNITARY BUSINESS GROUP DEFINED

Prior to P.A. 82-1029 the existence of a unitary business group was determined based on two levels of criteria. First, a unitary business group must be comprised of member businesses which are commonly owned. Second, in addition to common ownership, the member businesses must have met one of the following criteria: 1) be in the same general line of business, 2) be vertically integrated, or 3) share strong centralized management.

The new law makes shifts in these criteria. Common ownership remains an essential feature of a unitary business. In addition, the members must be either: 1) in the same general line of business and share strong centralized management, or 2) vertically integrated and share strong centralized management. In other words, whereas strong centralized management used to be an independent criterion, it must now appear in conjunction with one of the other two.

EXCLUSIONS FROM THE UNITARY GROUP

The new law also provides for the automatic exclusion from the unitary group of certain corporations.

Specifically, no corporation which conducts 80% or more of its business activity outside the United States (i.e., the fifty states plus the District of Columbia) shall be included in a unitary group (hereafter referred to as the "80/20 Rule"). "Business activity" is measured by apportionment factors applicable under Section 304(a), (b), (c), or (d), except that corporations normally required to use property, payroll, and sales factors (or any combination thereof) will not use the sales factor.

The second statutory exclusion prohibits corporations which use unlike apportionment methods from being members of the same unitary group.

Example: Corporations A, B, C, D, E, F, G, and H are commonly owned, shared strong centralized management, and are in the same general line of business.

Corporations A, B, and C use the standard three-factor formula of property, payroll, and sales factors to apportion income. Corporations D and E are insurance companies and apportion income based on a single factor formula of premiums. Corporations F and G are transportation companies and apportion income based on a single factor formula of revenue miles, while Corporation H is a financial organization and apportions income based on the single factor of receipts.

In this example three unitary groups are present. One includes the three companies (A, B, and C) using the standard three-factor apportionment formula. Another includes the two insurance companies, and the other includes the two transportation companies. The financial organization is not included in any group (since a group must have at least two members) and as such is not considered a unitary filer.

FOREIGN SOURCE DIVIDED DEDUCTION

All corporations (IL-1120 and IL-1120-ST) are entitled to deduct 85% of dividends received from a foreign corporation (100% if the payor corporation would have been a member of the same federally affiliated group as the payee had the payor not been foreign). For purposes of this deduction, a corporation is considered foreign if it is not organized under the laws of the United States or any State or political

subdivision thereof.

This deduction is limited to dividends that are included in taxable income and are in excess of the foreign dividend gross-up modification

permitted under Section 23(b)(2)(F) of the Illinois Income Tax Act.

For further information see Schedule J and instructions attached to this bulletin.

CHANGE IN NUMERATOR OF SALES FACTOR

The legislation also provides a change regarding the determination of the numerator of the sales factor when business income is to be apportioned by persons other than residents. The following instruction supplements the instructions regarding the determination of Illinois sales:

Sales of tangible personal property for resale will not be considered Illinois sales, and will not be included in the numerator of the sales factor, where the seller and purchaser would have been members of the same unitary group but for the fact that either the seller or purchaser meets the test of the "80/20 Rule."

For further information regarding unitary business groups, see the instructions accompanying Schedule UB, which will be available from the Department by April 1, 1983.

If you have any questions regarding this bulletin, please call Taxpayer Information Service at (217) 782-3336 or (312) 641-2150.

J. Thomas Johnson
Director of Revenue

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