

Arizona:

A. All business income of each trade or business of the taxpayer shall be apportioned to this state by use of the apportionment formula in A.R.S. § 43-1139. The elements of the apportionment formula are the property factor, the payroll factor, and the sales factor of the trade or business of the taxpayer.

B. A unitary business that files a combined return shall use an apportionment formula that combines the property, payroll, and sales figures of all of the unitary group members before calculating the factors.

C. An Arizona affiliated group that files a consolidated return shall use an apportionment formula that combines the property, payroll, and sales figures of all of the members of the Arizona affiliated group before calculating the factors.

D. This Section does not apply to a taxpayer engaged in air commerce that apportions its income in accordance with A.R.S. §43-1139(B).

Connecticut:

Conn. Gen. Stat. § 12-222(g)(1) A combined group shall file a combined unitary tax return under this chapter in the form and manner prescribed by the Commissioner of Revenue Services. The designated taxable member of a combined group shall file the combined unitary tax return on behalf of the taxable members of the combined group and shall pay the tax on behalf of such taxable members. A designated taxable member shall not be liable to, and shall be entitled to recover a payment made pursuant to this subdivision from, the taxable member on whose behalf the payment was made.

(2) If a member of a combined group has a different income year than the group income year, such member with a different income year shall report amounts from its return for its income year that ends during the group income year, provided no such reporting of amounts shall be required of such member until its first income year beginning on or after January 1, 2016.

(3) Notwithstanding the provisions of subdivision (1) of this subsection, each taxable member of a combined group is jointly and severally liable for the tax due from any taxable member under this chapter, whether or not such tax has been self-assessed, and for any interest, penalties or additions to tax due from any taxable member under this chapter.

(4) In all cases where a combined group is eligible to select the designated taxable member of the combined group, notice of the selection shall be submitted in written form to the commissioner not later than the due date, or, if an extension of time to file has been requested and granted, not later than the extended due date of the combined unitary tax return for the initial income year that such a return is required. The subsequent selection of another designated taxable member shall be subject to the approval of the commissioner.

(5) For purposes of this chapter, the designated taxable member is authorized to do the following acts on behalf of taxable and nontaxable members of the combined group, including, but not limited to:

- (A) Signing the combined unitary tax return, including any amendments to such return;
 - (B) applying for extensions of time to file the return;
 - (C) before the expiration of the time prescribed in section 12-233 for the examination of the return or the assessment of tax, consenting to an examination or assessment after such time and prior to the expiration of the period agreed upon;
 - (D) making offers of compromise under section 12-2d;
 - (E) entering into closing agreements under section 12-2e; and
 - (F) receiving a refund or credit of a tax overpayment under this chapter.
- (6) For purposes of this chapter, the commissioner may, at the commissioner's sole discretion:
- (A) Send any notice to either the designated taxable member or a taxable member or members of the combined group;
 - (B) make any deficiency assessment against either the designated taxable member or a taxable member or members of the combined group;
 - (C) refund or credit any overpayment to either the designated taxable member or a taxable member or members of the combined group;
 - (D) require any payment to be made by electronic funds transfer; and
 - (E) require the combined unitary tax return to be electronically filed.

Conn. Gen. Stat. §12-218e(b) A taxable member of a combined group shall determine its apportionment percentage as follows:

(1) Each taxable member shall determine its apportionment percentage based on the otherwise applicable apportionment formula provided in this chapter. In computing its denominators for all factors, the taxable member shall use the combined group's denominator for that factor. In computing the numerator of its receipts factor, each taxable member shall add to such numerator its share of receipts of nontaxable members assignable to this state, as provided in subdivision (3) of this subsection.

California:

Cal. Rev. & Tax. Code § 25135(b) For taxable years beginning on or after January 1, 2011, for purposes of determining whether sales are in this state and included in the numerator of the sales factor, all sales of the combined reporting group properly assigned to this state under this section shall be included in the sales factor numerator for this state regardless of whether the member of the combined reporting group making the sale is subject to the taxes imposed under Chapter 2 (commencing with Section 23101) or Chapter 3 (commencing with Section 23501) of this part. All sales not assigned to this state pursuant to subdivision (a) shall not be included in the sales factor numerator for this state if a member of the combined reporting group of the taxpayer is taxable in the state of the purchaser.

Cal. Code Regs. tit. 18, § 25106.5(c)(7)(A)(iii) The California sales factor of the combined reporting group is a fraction, the numerator of which is the total California sales of the group, determined under Sections 25134 through 25136 of the Revenue and Taxation Code, and the denominator of which is the total sales of the group everywhere. In the application of this subsection (c)(7)(A), a sale of tangible personal property shall be assigned to the state from which the property is shipped only if no member of the combined reporting group is taxable in the state of the purchaser. In addition, a sale of tangible personal property shipped to this state by a member of the combined reporting group (whether or not a taxpayer member) shall be

assigned to this state if any member of the combined reporting group is taxable in this state.

Kansas:

Kan. Admin. Regs. 92-12-112(a) The Kansas destination sales of tangible property of a corporation shall be assigned to the Kansas sales factor numerator if the Kansas activity of any unitary group member exceeds the solicitation of orders.

Maine:

36 M.R.S. § 5211(14) Sales factor formula. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this State during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. For purposes of calculating the sales factor, "total sales of the taxpayer" includes sales of the taxpayer and of any member of an affiliated group with which the taxpayer conducts a unitary business. The formula must exclude from both the numerator and the denominator sales of tangible personal property delivered or shipped by the taxpayer, regardless of F.O.B. point or other conditions of the sale, to a purchaser within a state in which the taxpayer is not taxable within the meaning of subsection 2, unless any member of an affiliated group with which the taxpayer conducts a unitary business is taxable in that state in the same manner as a taxpayer is taxable under subsection 2.

Code Me. R. §810.01(B) Apportionment factor . The apportionment factor is the sales factor. See 36 M.R.S.A. § 5211 (8) and Me. Dep't of Admin. & Fin. Servs., 18 125 CMR 801. In the case of an affiliated group of corporations engaged in a unitary business and filing a single return, the factor of the unitary business is the combined factor for all members of the group. In the case of a member of a unitary business group that is filing a separate return, the numerator of the factor is the amount of sales in Maine attributable directly to that member plus the applicable portion of Maine sales attributable to non-nexus entities as determined under section .05(B) and the denominator is the sales everywhere of all members of the group.

Code Me. R. § 810.05(A) Single return . Taxable corporations that are members of an affiliated group and that are engaged in a unitary business may file a single return on which the aggregate Maine income tax liability of all those corporations is reported. See 36 M.R.S.A. §5220(5). The income of the unitary business is the net income, or Maine net income, as the case may be, of the entire group. All members of the unitary business with Maine nexus must be included in the single return.

The single return must be filed in the name and federal employer identification number of the parent corporation if the parent is a member of the unitary business group and has nexus with Maine. If there is no parent corporation, if the parent is not a unitary group member, or if the parent does not have nexus with Maine, the members of the unitary business must choose a Maine taxpayer member to file the return. Once this filing member has been selected, it must remain the same in subsequent years unless an ownership change occurs or the filing member no longer has nexus with Maine. The return must be signed by a responsible officer of the filing member as the agent of all unitary business members subject to Maine tax. The Maine combined report of the unitary business must be attached to the Maine corporate income tax return. Members of the unitary group are jointly and severally liable for the tax of the members of the unitary group included in the combined return.

Code Me. R. § 810.05(B) Separate return . If the single return option is not chosen, each unitary member that has nexus with Maine must file a separate income tax return based on the

combined report. Each of the separate returns must list the combined federal taxable income and the combined state modifications of the unitary business. Each separate member determines its apportionment factor as follows. The numerator of the factor is the amount of Maine sales attributable directly to that separate member plus the applicable portion of Maine sales attributable to non-nexus entities described below. The denominator of the factor is the amount of everywhere sales of the unitary business.

The applicable portion of Maine sales attributable to non-nexus entities is determined by applying a fraction to the total Maine sales of the non-nexus entities. The fraction is equal to the separate Maine nexus member's Maine sales attributable directly to that member (i.e., Maine sales before the addition of a portion of non-nexus affiliate sales) divided by the total Maine sales attributable directly to all nexus entities. A copy of the combined report must be attached to each of the separate returns.

Massachusetts: Statute

M.G.L. c. 63, s. 32B(d)(2)(iv). The Massachusetts sales of each non-taxable member shall be determined based upon the apportionment rules applicable to such member and shall be aggregated. Each taxable member of the group shall include in its sales factor numerator a portion of the aggregate Massachusetts sales of non-taxable members based on a ratio, the numerator of which is such taxable member's Massachusetts sales taking into account its applicable sales factor provisions and ***the denominator of which is the aggregate Massachusetts sales*** of all the taxable members of the group taking into account their respective sales factor provisions. For purposes of determining whether sales are in the commonwealth and included in the numerator of the sales factor, a taxpayer is considered taxable in any state in which any member of its combined group is subject to tax.

Regulation:

830 CMR 63.32B.2(7)(b). Determination of Factor Numerators; Sales Factor "Finnigan" Adjustment. The numerator of the apportionment factor or factors that apply to each taxable member of a combined group shall include the property, payroll, and sales/receipts, as applicable, of such member as sourced to Massachusetts under the rules provided under M.G.L. c. 63, § 2A, 38 or 42, as applicable, subject to any adjustments provided for in 830 CMR 63.32B.2(7). Where a combined group includes one or more taxable members and one or more non-taxable members, the sales/receipts factor numerator(s) of the taxable member or members are increased in the following manner:

1. The total amount of sales or receipts sourced to Massachusetts under M.G.L. c. 63, § 2A, 38 or 42, as applicable, is determined for all non-taxable members;
2. Each taxable member determines a fraction, the numerator of which is the sales/receipts factor numerator of such member, determined without any adjustments under 830 CMR 63.32B.2(7)(b), and the denominator of which is the sum of the ***sales/receipts factor numerators*** of all taxable members, as determined without any adjustments under 830 CMR 63.32B.2(7)(b); and
3. For each taxable member, the total Massachusetts receipts of the non-taxable members is multiplied by the fraction described in 830 CMR 63.32B2(7)(b)2., and the resulting product is

added to the sales factor numerator, as otherwise determined, of the taxable member.

Also relevant:

830 CMR 63.32B.2(7)(c). Application of M.G.L. c. 63, §38(f) "Throwback." For purposes of determining whether sales are to be sourced to Massachusetts and included in the numerator of the sales factor of a taxable member of a combined group under M.G.L. c. 63, § 38(f) (i.e., as "throwback" sales), such taxable member is considered taxable in any state in which any member of its combined group is subject to tax with respect to the income derived from the group's unitary business (or, in the case of an affiliated group election, in any state in which any member of the combined group is taxable). 830 CMR 63.32B.2(7)(c) applies only if at least one member of the combined group is entitled to apportion its income under M.G.L. c. 63 for the tax year in question.

Michigan:

(f) The net income and apportionment factors under section 290.191 or 290.20 of foreign corporations and other foreign entities which are part of a unitary business shall not be included in the net income or the apportionment factors of the unitary business; except that the income and apportionment factors of a foreign entity, other than an entity treated as a C corporation for federal income tax purposes, that are included in the federal taxable income, as defined in section 63 of the Internal Revenue Code as amended through the date named in section 290.01, subdivision 19, of a domestic corporation, domestic entity, or individual must be included in determining net income and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20. A foreign corporation or other foreign entity which is not included on a combined report and which is required to file a return under this chapter shall file on a separate return basis.

Montana:

Mont. Admin. R. 42.26.260(1) In determining whether the activities of any company have been conducted within Montana beyond the protection of P.L. 86-272, the principle established in Appeal of Finnigan Corporation, 88-SBE-022 (8/25/1988) and Appeal of Finnigan Corporation, 88-SBE-22A, Opinion on Petition of Rehearing (1/24/1990), commonly known as the "Finnigan Rule," shall apply. When calculating the Montana apportionment numerators provided for in 15-31-306, 15-31-309, and 15-31-311, MCA, a group of corporations engaged in a unitary business as defined in 15-31-301, MCA, shall include Montana property, payroll, and receipts from all members of the unitary group as long as one or more members has nexus with Montana.

New York (State):

N.Y. Tax Law § 210-C(5) Apportionment on a combined report.

(a) In determining the apportionment factor for a combined report, the receipts, net income, net gains and other items of all members of the combined group, whether or not they are a taxpayer, are included and intercorporate receipts, income and gains are eliminated. Receipts, net income, net gains and other items are sourced, and the amounts allowed in the apportionment factor are determined, as provided in section two hundred ten-A of this article.

Regulation: N.Y. Comp. Codes R. & Regs. tit. 20, § 4-4.8 The receipts factor on a combined report is computed as though the corporations included in the report were one corporation. All intercorporate business receipts are eliminated in computing the combined business receipts factor. Intercorporate receipts are receipts by any corporation included in the combined report from any other corporation included in the combined report. As to when combined reports will be required or permitted, see Subpart 6-2 of this Title.

New York City:

N.Y.C. Admin. Code § 11-654.3(5)(a) In determining the business allocation percentage for a combined report, the receipts, net income, net gains and other items of each member of the combined group, whether or not they are a taxpayer, are included and intercorporate receipts, income and gains are eliminated. Receipts, net income, net gains and other items are sourced, and the amounts allowed in the receipts fraction are determined, as provided in section 11-654.2 of this subchapter.

North Carolina

Finnigan

N.C. Admin. Code tit. 17, r. 05F.0501(5) The taxpayer shall include in the apportionment factors the property, payroll, and sales of all corporations included in the combined group as provided in G.S. 105-130.4. All sales into North Carolina by entities within the combined group shall be included in the sales factor numerator. Where an intercompany transaction has occurred and been eliminated in the calculation of combined income, this amount shall also be eliminated from the numerator and denominator of the applicable factor.

Rhode Island

R.I. Regs. § CT 15-02, Rule 8(a) For tax years beginning on or after January 1, 2015, all C corporations that do business in Rhode Island and are members in a combined group are subject to combined reporting, whether the combined group does business in multiple states or only in Rhode Island.

R.I. Regs. § CT 15-02, Rule 8(b) In such situations, the C corporation must, for Rhode Island tax purposes, include in its combined report the income and apportionment factors of all members in its combined group. As long as one member in a combined group has corporate income tax nexus with Rhode Island and also engages in activities that exceed the protection of Public Law 86-272, then all members in the combined group, including those protected from state taxation by Public Law 86-272 and those that do not have nexus with Rhode Island, must be included when calculating the combined group's net income and apportionment factors. The Rhode Island receipts of a combined group member that lacks nexus with Rhode Island or that is protected from Rhode Island taxation by Public Law 86-272 must always be included in the numerator of an apportionment fraction on the combined return, as set forth in Regulation CT 15-04.

South Carolina (Revenue Ruling):

Revenue Ruling No. 15-5(D) Use Of The Finnigan Apportionment Method

There are two basic approaches to apportioning income when using combined unitary reporting: (1) "Joyce" and (2) "Finnigan". Joyce and Finnigan refer to two different methods of calculating the sales or gross receipts factor numerator for combined unitary apportionment purposes. (For simplicity, this document will use the term "sales factor" to refer to both the sales factor and gross receipts factor.) As a theoretical matter, the difference between the two methods is based on whether the combined unitary group is considered a single taxpayer or a group of separate taxpayers for purposes of apportioning income. As a practical matter, the difference between Joyce and Finnigan is how sales are treated in the numerator of the sales factor.

Joyce is considered a separate company method of combined reporting. Under Joyce, the income of all unitary members is multiplied by the Joyce sales factor for each unitary member that has nexus with South Carolina and is not protected by PL 86-272 ("South Carolina member"). Each South Carolina member has its own sales factor. The denominator of the sales factor for each South Carolina member includes the total sales of all unitary members (including those protected by PL 86-272 and those that do not have nexus with South Carolina). The numerator includes only the South Carolina sales of the South Carolina member. For each South Carolina member, the resulting apportionment factor is multiplied by the combined income of all unitary members.

Under Finnigan, all members of the combined unitary group are viewed more like a single taxpayer. The unitary group income is apportioned to the state for the group as a whole. The income of all unitary members is multiplied by a single sales factor (Finnigan sales factor). The numerator of the Finnigan sales factor includes total sales to South Carolina of all members of the unitary group including those members protected by PL 86-272 and/or do not have nexus with South Carolina. The denominator includes total sales everywhere for all unitary members. The Department will apply the Finnigan method to apportion the unitary income using a two-step process. As previously discussed, South Carolina's apportionment is a single factor sales/gross receipts formula. Total sales to South Carolina are divided by total sales everywhere and then multiplied by unitary income subject to apportionment. First, the unitary group income is apportioned to South Carolina for the group as a whole. This apportionment formula uses the South Carolina sales of all members of the combined unitary group in the sales factor numerator, including those members that are not subject to tax in South Carolina. The denominator includes total sales everywhere for all unitary members. The second step is to divide that state income among the members that are taxpayers subject to tax in South Carolina. In other words, the second step does not assign any of the South Carolina income to members without South Carolina nexus or those members protected by PL 86-272.

Additionally, since South Carolina is using the Finnigan method to apportion income rather than Joyce, all members will be allowed to use the South Carolina net operating losses and credits of all members of the combined unitary group.

Wisconsin:

Finnigan

Wis. Stat. § 71.255(5)(a) For purposes of this subsection, each member of a combined group is doing business in this state if any member of the combined group is doing business in this state and that business relates to the combined group's unitary business. Except as provided in par. (b), a taxpayer's share of the business income apportionable to this state of each combined group of which it is a member shall be the product of the business income of the combined

group as determined under sub. (4) and the taxpayer's modified sales factor from the combined group, determined as follows:

1. For a member that is subject to apportionment under s. 71.25 (9), the numerator of the modified sales factor includes the member's sales associated with the combined group's unitary business in this state. Sales under s. 71.25 (9) (b) 2m. and 3. and (c) shall be included in the numerator of the modified sales factor if no member of the combined group is within the jurisdiction of the destination state for income or franchise tax purposes.

2. For a member that is subject to apportionment using a receipts factor under the department's rules pursuant to s. 71.25 (10), the numerator of the modified sales factor includes the member's Wisconsin receipts associated with the combined group's unitary business in this state, as provided by such rules.

3. For a member that is subject to apportionment under s. 71.45 (3), the numerator of the modified sales factor includes the member's premiums that are associated with the combined group's unitary business in this state.

4. The denominator of the modified sales factor shall include the denominator of the sales factor for each combined group member described in subd. 1., the denominator of the receipts factor for each combined group member described in subd. 2., and the denominator of the premiums factor for each combined group member described in subd. 3.

5. For a member that is required under the department's rules to use an apportionment factor or factors other than the sales factor, receipts factor, or premiums factor, the numerator of the modified sales factor for such member is its Wisconsin apportionment percentage on a separate entity basis based on the rules prescribed by the department, multiplied by the member's total sales, as defined in s. 71.25 (9) (e) and (f). The denominator of the modified sales factor for such member is the member's total sales as defined in s. 71.25 (9) (e) and (f).

6. The numerator and denominator, described in subds. 1. to 5., shall include the sales, receipts, or premiums of pass-through entities that are owned directly or indirectly by a corporation in proportion to a ratio the numerator of which is the amount of the corporation's distributive share of the pass-through entity's unitary business income included in the income of the combined group under sub. (4) and the denominator of which is the amount of the pass-through entity's total unitary business income.

7. The modified sales factor shall exclude transactions between members of the same combined group.

8. For purposes of determining the numerator of the modified sales factor or any apportionment factor or factors determined under par. (b), a taxpayer is considered to be within the jurisdiction for income or franchise tax purposes of any state in which any member of its combined group is within the jurisdiction for income or franchise tax purposes.