

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 63.32B.2(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.

Maine	<p><i>Finnigan</i></p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>
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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.

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.

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.

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.