Arizona:

Section R15-2D-401. Unitary Business and Combined Returns

A.A.C. R15-2D-401(A) An entity, group of entities, or components of an entity is not a unitary business for apportionment purposes unless there is actual substantial interdependence and integration of the basic operations of the business carried on in more than one taxing jurisdiction. The potential to operate an entity or a component as part of the unitary business is not dispositive.

A.A.C. R15-2D-401(B) The determination of whether the operations of a taxpayer constitute a unitary business is based on economic substance and not form. Therefore, a unitary business may consist of part of a corporation, one corporation, or many corporations. If the unitary business consists of more than one corporation, the corporations comprising the unitary business shall file a combined return apportioning the business income of the corporations using a single apportionment formula.

A.A.C. R15-2D-401(C) The main reason for defining a business as unitary is that its components in various states are so tied together at the basic operational level that it is difficult to determine the state in which profits are earned. Centralized top-level management, financing, accounting, insurance and benefit programs, or overhead functions by a home office are not sufficient for a business to be unitary without further analysis of the basic operations of the components.

A.A.C. R15-2D-401(G) A manufacturing, producing, or mercantile type of business is not a unitary business unless there is a substantial transfer of material, products, goods, technological data and processes, or machinery and equipment between the branches, divisions, subsidiaries, or affiliates.

A.A.C. R15-2D-401(G)(1) A transfer of 20 percent of the total goods annually manufactured, produced, or purchased as inventory for processing or sale, or both, by the transferor, or 20 percent of the total goods annually acquired for processing or sale, or both, by the transferee is presumptive evidence of a unitary business.

A.A.C. R15-2D-401(G)(2) A smaller percentage of goods transferred may be indicative of a unitary business if other characteristics indicating substantial operational integration are present.

A.A.C. R15-2D-401(H) In a unitary service business, the operations of the various components or entities of the business are integrated and interrelated by their involvement with the central office or parent in delivering substantially the same service. The day-to-day operations of the components or entities use the same procedures and technologies that are developed, organized, purchased, or prescribed by the central office or parent. There usually is an exchange of employees among the components or entities and centralized training of employees.

A.A.C. R15-2D-401(I) A taxpayer may have more than one unitary business. In this case, it is necessary to determine the business income attributable to each separate unitary business. The income of each business is apportioned using an apportionment formula that considers the in-state and out-of-state factors of the business.

A.A.C. R15-2D-401(J) Generally, a conglomerate composed of diverse businesses is not a single unitary business. However, a line or lines of business within the conglomerate may be a unitary business if the operations of the components of the line or lines are integrated and interrelated.

A.A.C. R15-2D-401(K) All members of a combined return shall determine income using the same accounting period.

A.A.C. R15-2D-401(K)(1) If the members of a combined return have different accounting periods, the accounting period to be used by the members shall be determined as follows:

A.A.C. R15-2D-401(K)(1)(a) If the combined return includes the common parent corporation, the parent's accounting period is used.

A.A.C. R15-2D-401(K)(1)(b) If the combined return does not include the common parent corporation, the accounting period of a member that has a presence in Arizona shall be used. The same group member's accounting period shall be used consistently from year to year.

A.A.C. R15-2D-401(K)(2) Each member of a combined return that uses an accounting period that is different from the common accounting period determined in subsection (K)(1), shall use one of the following methods to determine the income to be included in the common accounting period:

A.A.C. R15-2D-401(K)(2)(a) Determine income and related deductions using actual book or accounting entries for the relevant period.

A.A.C. R15-2D-401(K)(2)(b) Determine income based on the number of months falling within the required common accounting period. For example, if one member uses a calendar year, and the common accounting period ends October 31, 1981, the member will include 2/12 of the income for the year ended December 31, 1980, and 10/12 of the income for the year ended December 31, 1981. Estimates may be necessary if this proration method involves a member's year that ends subsequent to the common accounting period.

Section R15-2D-405. Intercompany Eliminations
Members of a combined or consolidated return shall eliminate intercompany amounts included in the group's income, expense, and apportionment factors when necessary to avoid distortion of the group's Arizona taxable income.

Connecticut:

C.G.S. § 12-218e(a) For purposes of this chapter, the combined group's net income shall be the aggregate net income or loss of each taxable member and nontaxable member of the combined group derived from a unitary business, which shall be determined as follows:
(1) For any member incorporated in the United States, included in a consolidated federal corporate income tax return and filing a federal corporate income tax return, the income to be included in calculating the combined group's net income shall be such member's gross income, less the deductions provided under section 12-217 , as if the member were not consolidated for federal tax purposes.
(2) For any member not included in a consolidated federal corporate income tax return but required to file its own federal corporate income tax return, the income to be included in calculating the combined group's net income shall be such member's gross income, less the deductions provided under section 12-217 .
(3) For any member not incorporated in the United States, not included in a consolidated federal corporate income tax return and not required to file its own federal corporate income tax return, the income to be included in the combined group's net income shall be determined from a profit and loss statement that shall be prepared for each foreign branch or corporation in the currency in which the

books of account of the branch or corporation are regularly maintained, adjusted to conform it to the accounting principles generally accepted in the United States for the presentation of such statements and further adjusted to take into account any book-tax differences required by federal or Connecticut law. The profit and loss statement of each such member of the combined group and the apportionment factors related thereto, whether United States or foreign, shall be translated into or from the currency in which the parent company maintains its books and records on any reasonable basis consistently applied on a year-to-year or entity-by-entity basis. Income shall be expressed in United States dollars. In lieu of these procedures and subject to the determination of the commissioner that the income to be reported reasonably approximates income as determined under this chapter, income may be determined on any reasonable basis consistently applied on a year-to-year or entity-by-entity basis.

(4)(A) If the unitary business has income from an entity that is treated as a pass-through entity, the combined group's net income shall include its member's direct and indirect distributive share of the pass-through entity's unitary business income.

(B) The distributive share of income received by a limited partner from an investment partnership shall not be considered to be derived from a unitary business unless the general partner of such investment partnership and such limited partner have common ownership. To the extent that the limited partner is otherwise carrying on or doing business in Connecticut, it shall apportion its distributive share of income from an investment partnership in accordance with subdivision (2) of subsection (g) of section 12-218 . If the limited partner is not otherwise carrying on or doing business in Connecticut, its distributive share of income from an investment partnership is not subject to tax under this chapter.

(5) All dividends paid by one member to another member of the combined group shall be eliminated from the income of the recipient.

(6) The principles set forth in the Treasury regulations promulgated under Section 1502 of the Internal Revenue Code, including the principles relating to deferrals, eliminations, and exclusions, shall apply to the extent consistent with the Connecticut combined group membership and combined unitary reporting principles. Upon the occurrence of either of the following events, deferred business income resulting from an intercompany transaction among members of a combined group shall be restored to the income of the seller and shall be included in the combined group's net income as if the seller had earned the income immediately before the event:

(A) The object of a deferred intercompany transaction is:

(i) Resold by the buyer to an entity that is not a member of the combined group,

(ii) resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged, or

(iii) converted by the buyer to a use outside the unitary business in which the buyer and seller are engaged; or

(B) The buyer and seller are no longer members of the same combined group, regardless of whether the members remain unitary.

(7) A charitable expense incurred by a member of a combined group shall, to the extent allowable as a deduction pursuant to Section 170 of the Internal Revenue Code, be subtracted first from the combined group's net income, subject to the income limitations of said section applied to the entire business income of the group. Any charitable deduction disallowed under the foregoing rule, but allowed as a carryover deduction in a subsequent year, shall be treated as originally incurred in the subsequent year by the same member and the rules of this section shall apply in the subsequent year in determining the allowable deduction for that year.

(8) Gain or loss from the sale or exchange of capital assets, property described by Section 1231(a)(3) of the Internal Revenue Code and property subject to an involuntary conversion shall be removed from the net income of each member of a combined group and shall be included in the combined group's net income as follows:

(A) For each class of gain or loss, whether short-term capital, long-term capital, Section 1231 of the Internal Revenue Code gain or loss, or gain or loss from involuntary conversions, all members' business gain and loss for the class shall be combined, without netting among such classes, and each class of net business gain or loss shall be apportioned to each member under subsection (b) of this section; and
(B) Any resulting income or loss apportioned to this state, as long as the loss is not subject to the limitations of Section 1211 of the Internal Revenue Code, of a taxable member produced by the application of subparagraph (A) of this subdivision shall then be applied to all other income or loss of that member apportioned to this state. Any resulting loss of a member apportioned to this state that is subject to the limitations of said Section 1211 shall be carried forward by that member and shall be treated as short-term capital loss apportioned to this state and incurred by that member for the year for which the carryover applies.
(9) Any expense of any member of the combined group that is directly or indirectly attributable to the income of any member of the combined group, which income this state is prohibited from taxing pursuant to the laws or Constitution of the United States, shall be disallowed as a deduction for purposes of determining the combined group's net income.

California:

Cal. Code Regs. tit. 18, § 25106.5-11(a) General. Every taxpayer subject to the California Corporation Tax Law is required to file its own tax return, including taxpayers that are members of a combined reporting group. Taxpayers subject to the California Corporation Tax Law that are members of a combined reporting group are required to attach a combined report to their tax returns. Notwithstanding these requirements, taxpayers subject to the California Corporation Tax Law that are members of a combined reporting group that includes another taxpayer that is also subject to the California Corporation Tax Law may annually elect to be included in a "group return" as provided for in this regulation. (See Regulation section 25106.5, subsections (b)(1), (3) and (13)).
Cal. Code Regs. tit. 18, § 25106.5-11(b)(1) In order to be eligible to make the election provided under this section, the electing key corporation must meet the definition of a "key corporation" as defined in Regulation section 25106.5, subsection (b)(14) in addition to meeting the following requirements, by either being:
(A) the parent corporation of the combined reporting group as defined in Regulation section 25106.5(b)(12)(A)(1), or
(B) if the parent corporation of the combined reporting group is not a taxpayer member, the taxpayer member with the largest California property factor numerator, and
(C) the key corporation's powers, rights and privileges must not be forfeited or suspended by the California Secretary of State and it must not have a petition with the United States Bankruptcy Court pending on the last day of the taxable year.
Cal. Code Regs. tit. 18, § 25106.5(c) Steps in determining California source income or loss from the business income of a combined reporting group. Members of a combined reporting group shall compute their income from California sources in the following steps, in the order indicated.
(1) Determination of Separate Net Income. Except as otherwise provided by this regulation or other regulations adopted under Section 25106.5 of the Revenue and Taxation Code, each member of a combined reporting group must identify its total separate net income for the period beginning and ending with the accounting period of the principal member of the combined reporting group. Items of income and expense should be presented in columnar form for each member. Except as otherwise provided by this regulation or other regulations under Section 25106.5 of the Revenue and Taxation

Code, total separate net income shall be determined by the Revenue and Taxation Code, subject to the following modifications:
(A) Intercompany Transactions. (See Cal. Code Regs., tit. 18, § 25106.5-1.)
(B) Capital, etc., Gains and Losses. Capital, Section 1231 (Internal Revenue Code), and involuntary conversion gains and losses shall not be taken into account. Such gains and losses are apportioned and allocated as determined under California Code of Regulations, title 18, section 25106.5-2.
(C) Net Operating Loss Deductions. Net operating loss deductions shall not be taken into account. The net operating loss deduction of a taxpayer member is allowed as a deduction only against the California source income (i.e., after apportionment and allocation) of the taxpayer member of the group (see subsection (e) of this regulation).
(2) Accounting Methods and Elections. Except as otherwise provided by this regulation or other regulations under Section 25106.5 of the Revenue and Taxation Code, the taxpayer members of the combined reporting group may elect to determine the net income of a member of the group under accounting methods and other elections as authorized by Division 2, Part 11 of the Revenue and Taxation Code, independently of the net income of other members of the combined reporting group. See Section 25106.5-3 of Title 18 of the California Code of Regulations.
(3) Adjustment for Nonbusiness Income, etc. The resulting total separate income of each member of the combined reporting group is then adjusted to remove income items attributable to the member's nonbusiness income, and any items of business income which do not constitute combined report business income of the group.
(4) Assignment of Expenses to Business and Nonbusiness Income. (Reserved).
(5) Fiscalization to Principal Member's Year. If the accounting period of the principal member and one or more of the other members of the combined reporting group do not begin and end on the same dates, adjustments must be made to fiscalize the other members' combined report business income and apportionment data in order to assign an appropriate amount of those values to the accounting period of the principal member. See California Code of Regulations, title 18, section 25106.5-4.
(6) Alignment of Business Income to Principal Member's Accounting Period. The combined report business income of all members aligned to the accounting period of the principal member is then aggregated, resulting in total group combined report business income.

Kansas:

Section 92-12-110. Combined income method of reporting; surtax exemption
Each corporation filing a Kansas income tax return using the combined income method of reporting with more than one entity of the combined group doing business in Kansas, may report the total Kansas combined income and pay the tax due by filing one Kansas income tax return. When a corporation uses this method for a taxable year, the corporation shall continue to use this method for all future years or as long as the Kansas combined return is utilized.

Section 92-12-77. Combined income method of reporting
If a particular trade or business is carried on by a taxpayer and one (1) or more affiliated corporations, nothing in K.S.A. 79-3271 et seq. , and 79-4301, article IV or in these regulations shall preclude the use of a combined income method of reporting whereby the entire business income of such trade or business is apportioned in accordance with K.S.A. 79-3279 to 79-3287 and 79-4301 , article IV.9 to IV.17.

Section 92-12-72. Two or more businesses of a single taxpayer
A taxpayer may have more than one (1) "trade or business." In such cases, it is necessary to determine the business income attributable to each separate trade or business. The income of each business is

then apportioned by an apportionment formula which takes into consideration the instate and outstate factors which relate to the trade or business the income of which is being apportioned.
The determination of whether the activities of the taxpayer constitute a single trade or business or more than one (1) trade or business will turn on the facts in each case. In general, the activities of the taxpayer will be considered a single business if there is evidence to indicate that the segments under consideration are integrated with, dependent upon, or contribute to each other and the operations of the taxpayer as a whole. The following factors are considered to be good indicia of a single trade or business, and the presence of any of these factors creates a strong presumption that the activities of the taxpayer constitute a single trade or business:
(a) A taxpayer is generally engaged in a single trade or business when all of its activities are in the same general line.
(b) A taxpayer is almost always engaged in a single trade or business when its various divisions or segments are engaged in different steps in a large, vertically structured enterprise.
(c) A taxpayer which might otherwise be considered as engaged in more than one (1) trade or business is properly considered as engaged in one (1) trade or business when there is a strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Thus, some conglomerates may properly be considered as engaged in only one (1) trade or business when the central executive officers are normally involved in the operations of the various divisions and there are centralized offices which perform for the divisions the normal matters which a truly independent business would perform for itself, such as accounting, personnel, insurance, legal, purchasing, advertising, or financing.

Maine:

36 M.R.S. § 5220(5) Certain taxable corporations. Every taxable corporation that is required to file a federal income tax return. A taxable corporation that is a member of an affiliated group and that is engaged in a unitary business with one or more other members of that affiliated group shall file, in addition, a combined report, in accordance with section 5244 . The State Tax Assessor may allow 2 or more taxable corporations that are members of an affiliated group and that are engaged in a unitary business to file a single return on which the aggregate Maine income tax liability of all those corporations is reported.

36 M.R.S. § 5102(1-B) Affiliated group. "Affiliated group" means a group of 2 or more corporations in which more than 50% of the voting stock of each member corporation is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations.

Code Me. R. § 125-810-02. Combined report
A taxable corporation that is a member of an affiliated group and that is engaged in a unitary business with one or more other members of that affiliated group must file a combined report. 36 M.R.S.A. § 5220 (5) . Maine utilizes a "water's edge" methodology for determining the apportionable income base, meaning the income subject to apportionment is the income required to be reported on the taxpayer's federal income tax return as modified by Maine law. Therefore, all unitary members of the affiliated group, except those members not required to file a federal return, must be listed on the combined report. Furthermore, the income of a corporation not required to file a federal return may not be included on the combined report. The apportionment factor must include only those amounts attributable to the apportionable income base for that taxable year. Variation may be allowed when petitioned for by the taxpayer or may be required by the Assessor. See 36 MRSA § 5211 (17) .

The combined report must indicate whether each corporation has nexus with Maine. The combined report must also include, both in the aggregate and by corporation: the federal taxable income, state modifications provided by 36 M.R.S.A. § 5200-A , sales in Maine and everywhere, and the Maine net income of the unitary business . See 36 M.R.S.A. § 5244 . The corporations listed that are unitary members of the affiliated group and that have nexus with Maine must file a Maine corporate income tax return or returns as provided in Section .05 below. See 36 M.R.S.A. § 5220 (5) .

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. § 125-810-06. Computation of tax. The gross tax is calculated by applying the Maine corporate income tax rates provided in 36 M.R.S.A. § 5200 against the net income of the unitary group. The gross tax is then adjusted by multiplying that amount by the apportionment factor of the unitary group, the product of which is the Maine tax liability for the nexus members of the unitary group.
If separate returns are filed, each filing member applies its separate apportionment factor, as calculated under section .05(B), against the gross tax to determine the member's Maine tax liability. If an alternate assignment of tax liability is elected by the assignment of the preferential rates provided in 36 M.R.S.A. § 5200 to a specific member or members, the associated reduction of tax liability must result in an equal increase of tax liability to one or more other members of the unitary group. The sum of tax liabilities of the separate filing members must equal the Maine tax liability that would have been imposed on the nexus members of the unitary group if a single return was filed.

Massachusetts:

M.G.L. c. 63, § 32B. Consolidated return of income by certain corporations
M.G.L. c. 63, § 32B(a) Notwithstanding any other provision of this chapter, a corporation subject to tax under this chapter and engaged in a unitary business with 1 or more corporations subject to combination within the meaning of this section shall, under regulations adopted by the commissioner, calculate its taxable net income derived from this unitary business as its share, attributable to the commonwealth, of the apportionable income or loss of the combined group engaged in the unitary business, determined in accordance with a combined report. In computing the apportionable income or loss of the combined group and of each member thereof, items of income, deductions and receipts from transactions between or among members of the combined group, including but not limited to the payment of dividends, shall be eliminated, subject to regulations as may be adopted pursuant to clause (i) of subsection (f).

M.G.L. c. 63, § 32B(b)(1) For purposes of this section, the term unitary business shall mean the activities of a group of 2 or more corporations under common ownership that are sufficiently interdependent, integrated or interrelated through their activities so as to provide mutual benefit and produce a significant sharing or exchange of value among them or a significant flow of value between the separate parts. The term unitary business shall be construed to the broadest extent permitted under the United States Constitution.
(2) For purposes of this section, the words common ownership shall mean that more than 50 per cent of the voting control of each member of the group is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, whether or not the owner or owners are members of the combined group. A group of corporations under common ownership may be engaged in 1 or more unitary businesses.
(3) Any business conducted by a partnership shall be treated as the business of the partners, whether the partnership interest is directly held or indirectly held through a series of partnerships, to the extent of the partners distributive share of the partnerships income, regardless of the magnitude of the partners ownership interest or its distributive share of partnership income. A business conducted directly or indirectly by 1 corporation is unitary with that portion of a business conducted by another, commonly owned corporation through its direct or indirect interest in a partnership if the activities conducted by the former corporation and the partnership are unitary within the meaning of paragraph (1) regardless of the magnitude of the partners ownership interest or its distributive or any other share of partnership income.

830 CMR 63.32B.2(4)(a) General . In general, where a corporation subject to tax under M.G.L. c. 63, § 2, 2B, 32D, 39 or 52A, is engaged in a unitary business with one or more other corporations that are related by common ownership, the taxpayer corporation must determine its tax liability based upon the income and apportionment information of all corporations included in the combined group through the means of a combined report. In some cases, the taxable member or members of a combined group may make an election to treat their Massachusetts affiliated group as the combined group and to file a combined report on that basis. See 830 CMR 63.32B.2(10). Irrespective as to whether an affiliated group election is made, not every type of corporation is required to be included in a combined group and therefore to have its tax attributes included in a combined report. The rules for included and excluded corporations are set forth in 830 CMR 63.32B.3.2(4)(b) and (c).
(b) Included Corporations . Corporations that are required to be included in a combined group and therefore required to be included in a combined report filed by a taxable member of a combined group shall include all entities of the kind that are subject to tax or would be subject to tax if doing business in the commonwealth, under M.G.L. c. 63, § 2, 2B, 32D, 39 or 52A, and entities described in M.G.L. c. 63, §§ 20 through 29E, including so-called "captive" insurance companies, if such entities do not qualify for treatment as a life insurance company as defined in Code § 816 or an insurance company subject to tax imposed by Code § 831. Each such corporation is included in a combined group and the resulting combined report filing, as stated, irrespective of whether the corporation is actually subject to tax under M.G.L. c. 63, § 2, 2B, 32D, 39 or 52A. Consequently, for example, an S corporation is subject to tax under M.G.L. c. 63, § 32D and included in a combined group irrespective as to whether in any given year it actually has a tax liability under M.G.L. c. 63, § 32D. Also, the corporations to be included in a combined group include a real estate investment trust (REIT) as referenced under Code §§ 856 through 859, and a regulated investment company (RIC) as referenced under Code §§ 851 through 855. However, a corporation is only required to be included in a combined group with one or more other corporations if, inter alia, it is related with such corporations by common ownership. Therefore, for example, in many cases the ownership of a REIT or a RIC may not meet this standard.

(c) Excluded Corporations . Corporations that are not included in a combined group and therefore not included in a combined report filed thereby, irrespective as to whether they are engaged in a unitary business with a taxable member of such group, include an entity described in M.G.L. c. 63, § 38Y or an entity classified and taxed under M.G.L. c. 63, § 38B. Also, such excluded corporations include an entity described in M.G.L. c. 63, §§ 20 through 29E, except as provided in 830 CMR 63.32B.2(4)(b) or as otherwise provided in M.G.L. c. 63.

830 CMR 63.32B.2(6) Determination of Taxable Income of Taxable Member of a Combined Group .
830 CMR 63.32B.2(6)(a) General Rule. A corporation subject to tax under M.G.L. c. 63, §§ 2, 2B, 32D, 39 or 52A and included in a combined group with one or more other corporations shall file with its tax return a combined report that includes the income of all corporations that are members of the combined group and such other information as required by the Commissioner. An explanation of the components of the income of a taxable member of a combined group (for example, addressing the situation where the member may have income apart from that derived from the combined group) and the rules for determining a combined group's taxable income are set forth in 830 CMR 63.32B.2(6). If one or more members of a combined group have income from the activities of the group's unitary business that is taxable in another state (or, in the case of an affiliated group election, one or more members of the group are taxable on their income from business activity in another state), each taxable member of the combined group shall determine its net income derived from the activities of the combined group by applying its apportionment percentage as determined under 830 CMR 63.32B.2(7) to the combined group's taxable income as determined under 830 CMR 63.32B.2(6)(c).
830 CMR 63.32B.2(6)(b) Components of Income of a Taxable Member of a Combined Group .
830 CMR 63.32B.2(6)(b)(1) Unitary Group Members . A taxable member's share of the unitary business income apportionable to this state of each combined group of which it is a member shall be determined by reference to a combined report filed with respect to the unitary business. The use of the combined report does not disregard the separate identities of the taxable members of the combined group. Each taxable member of a combined group engaged in a unitary business is responsible for an income-based excise that is to be determined based upon its taxable income or loss apportioned or allocated to this state, which shall include, as relevant, the taxpayer's:
830 CMR 63.32B.2(6)(b)(1)(a) share of any unitary business income apportionable to this state for each of the combined groups of which it is a member;
830 CMR 63.32B.2(6)(b)(1)(b) share of any income apportionable to this state of a distinct business activity conducted within and without the state by the taxable member and not as a part of the unitary business referenced in 830 CMR 63.32B.2(6)(b)1.a.;
830 CMR 63.32B.2(6)(b)(1)(c) income from a business conducted by the taxable member entirely within the state and not as a part of the unitary business referenced in 830 CMR 63.32B.2(6)(b)1.a.;
830 CMR 63.32B.2(6)(b)(1)(d) income or loss allocable to this State; and
830 CMR 63.32B.2(6)(b)(1)(e) net operating loss carry forward(s), including any NOL carry forward(s) of another taxable member of the combined group that the taxpayer is permitted to share, to be offset against the taxpayer's taxable net income on a post-apportioned basis as explained in 830 CMR 63.32B.2(8).
Depending upon the circumstances of any individual taxpayer, without limitation as to other possible adjustments, other items of income or adjustments to the taxpayer's apportioned net income may also apply.

Michigan:

Section 206.691. Filing of combined return by unitary business group

MCL 206.691(1) Except as otherwise provided under section 680(3), a unitary business group shall file a combined return that includes each United States person that is included in the unitary business group. Each United States person included in a unitary business group or included in a combined return shall be treated as a single person, and all transactions between those persons included in the unitary business group shall be eliminated from the corporate income tax base, the apportionment formulas, and for purposes of determining exemptions, credits, and the filing threshold under this part. If a United States person included in a unitary business group or included in a combined return is subject to the tax under chapter 12 or 13, any corporate income attributable to that person shall be eliminated from the corporate income tax base and any sales attributable to that person shall be eliminated from the apportionment formula under this part.

MCL 206.691(2) A person that is part of an affiliated group may elect without the consent of the department to have all of the persons that are included in that affiliated group to be treated as a unitary business group. A taxpayer that elects to file as a unitary business group pursuant to this subsection shall compute its tax under this part in accordance with all other provisions of this part that apply to a unitary business group. The taxpayer shall make the election under this subsection on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return. Each person included in the affiliated group is deemed to have agreed to be bound by the election made under this subsection and any renewal of that election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. Each person that subsequently enters the affiliated group after the tax year for which the election is made is deemed to have consented to the application of and is bound by the election and to have waived any objection to its inclusion in the affiliated group and treatment as a unitary business group. An election made pursuant to this subsection is irrevocable and binding for and applicable to the tax year for which it is made and for the next 9 tax years. The election shall remain in effect for the time period in which the ownership requirements under this section are met irrespective of whether a federal consolidated group to which the unitary business group belongs discontinues the filing of a federal consolidated return or whether the common parent changes due to a reverse acquisition or acquisition by a related person. Upon the expiration of the election after it has been in effect for 10 tax years, an election may be renewed for another 10 tax years, without the consent of the department; provided however, that in the case of a nonrenewal a new election under this subsection is not permitted in any of the immediately following 3 tax years. The renewal shall be made on a form or in a format as prescribed by the department that is to be filed in a timely manner with the taxpayer's annual return after the completion of a 10-year period for which an election under this subsection was in place.

MCL 206.663(2) Except as otherwise provided under this subsection, for a taxpayer that is a unitary business group, sales include sales in this state of every person included in the unitary business group without regard to whether the person has nexus in this state. Sales between persons included in a unitary business group must be eliminated in calculating the sales factor. Sales between a taxpayer and a flow-through entity unitary with that taxpayer shall, to the extent of the taxpayer's interest in the flow-through entity, be eliminated in calculating the sales factor. Sales between a flow-through entity unitary with a taxpayer and another flow-through entity unitary with that same taxpayer shall, to the extent of the taxpayer's interest in the selling flow-through entity, be eliminated in calculating the sales factor.

Montana:

Mont. Admin. R. 42.26.204(1) If a particular trade or business is carried on by a taxpayer and one or more unitary affiliated corporations owned greater than 50 percent, the taxpayer is required to file a "combined report" whereby the entire apportionable income of such trade or business is apportioned in accordance with 15-31-305 through 15-31-311 , MCA.

Mont. Admin. R. 42.26.205(1) A taxpayer may have more than one "trade or business." In such cases, it is necessary to determine the apportionable income attributable to each separate trade or business. The income of each business is then apportioned by an apportionment formula which takes into consideration the in-state and out-of-state factors which relate to the trade or business income being apportioned.
(2) The determination of whether the activities of the taxpayer constitute a single trade or business will depend on the facts in each case. In general, the activities of the taxpayer will be considered a single business if there is evidence to indicate that the segments under consideration are integrated with, dependent upon, or contribute to each other and the operations of the taxpayer as a whole. The following factors are considered to be good indicia of a single trade or business, and the presence of any of these factors creates a strong presumption that the activities of the taxpayer constitute a single trade or business:
(2)(a) A taxpayer is generally engaged in a single trade or business when all of its activities are in the same general line. For example, a taxpayer which operates a chain of retail grocery stores will almost always be engaged in a single trade or business.
(2)(b) A taxpayer is almost always engaged in a single trade or business when its various divisions or segments are engaged in different steps in a large, vertically structured enterprise. For example, a taxpayer which explores for and mines copper ores; concentrates, smelts, and refines the copper ores; and fabricates the refined copper into consumer products is engaged in a single trade or business regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the taxpayer's executive offices.
(2)(c) A taxpayer which might otherwise be considered as engaged in more than one trade or business is properly considered as engaged in one trade or business when there is a strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Thus, some conglomerates may properly be considered as engaged in only one trade or business when the central executive officers are normally involved in the operations of various divisions and there are centralized offices which perform for the divisions the normal matters which a truly independent business would perform for itself, such as accounting, personnel, insurance, legal, purchasing, advertising, or financing.

New York:

N.Y. Tax Law § 210-C(1)(a) The tax on a combined report shall be the highest of (i) the combined business income base multiplied by the tax rate specified in paragraph (a) of subdivision one of section two hundred ten of this article; (ii) the combined capital base multiplied by the tax rate specified in paragraph (b) of subdivision one of section two hundred ten of this article, but not exceeding the limitation provided for in that paragraph (b); or (iii) the fixed dollar minimum that is attributable to the designated agent of the combined group. In addition, the tax on a combined report shall include the

fixed dollar minimum tax specified in paragraph (d) of subdivision one of section two hundred ten of this article for each member of the combined group, other than the designated agent, that is a taxpayer.

N.Y. Tax Law § 210-C(2)(a) Except as provided in paragraph (c) of this subdivision, any taxpayer (i) which owns or controls either directly or indirectly more than fifty percent of the voting power of the capital stock of one or more other corporations, or (ii) more than fifty percent of the voting power of the capital stock of which is owned or controlled either directly or indirectly by one or more other corporations, or (iii) more than fifty percent of the voting power of the capital stock of which and the capital stock of one or more other corporations, is owned or controlled, directly or indirectly, by the same interests, and (iv) that is engaged in a unitary business with those corporations (hereinafter referred to as "related corporations"), shall make a combined report with those other corporations.

N.Y. Tax Law § 210-C(2)(d) A combined report shall be filed by the designated agent of the combined group as determined under subdivision seven of this section.

N.Y. Tax Law § 210-C(3)(a) Subject to the provisions of paragraph (c) of subdivision two of this section, a taxpayer may elect to treat as its combined group all corporations that meet the ownership requirements described in paragraph (a) of subdivision two of this section (such corporations collectively referred to in this subdivision as the "commonly owned group"). If that election is made, the commonly owned group shall calculate the combined business income, combined capital, and fixed dollar minimum bases of all members of the group in accordance with subdivision four of this section , whether or not that business income or business capital is from a single unitary business.

N.Y. Tax Law § 210-C(4)(a) In computing the tax bases for a combined report, the combined group shall generally be treated as a single corporation, except as otherwise provided, and subject to any regulations or guidance issued by the commissioner or the department.

N.Y. Tax Law § 210-C(4)(b)(i) In computing combined business income, all intercorporate dividends shall be eliminated, and all other intercorporate transactions shall be deferred in a manner similar to the United States Treasury regulations relating to intercompany transactions under section fifteen hundred two of the internal revenue code.

N.Y. Tax Law § 210-C(4)(b)(ii) In computing combined capital, all intercorporate stockholdings, intercorporate bills, intercorporate notes receivable and payable, intercorporate accounts receivable and payable, and other intercorporate indebtedness, shall be eliminated.

N.Y. Tax Law § 210-C(6) Liability of combined group members. Every member of the combined group that is subject to tax under this article shall be jointly and severally liable for the tax due pursuant to a combined report.

N.Y. Tax Law § 210-C(7) Designated agent. Each combined group shall have one designated agent for the combined group , which shall be a taxpayer. Only the designated agent may act on behalf of the members of the combined group for matters relating to the combined report.

North Carolina:

N.C.G.S. § 105-130.5A(a) Notice. - When the Secretary has reason to believe that any corporation so conducts its trade or business in such manner as to fail to accurately report its State net income properly

attributable to its business carried on in the State through the use of transactions that lack economic substance or are not at fair market value between members of an affiliated group of entities, the Secretary may, upon written notice to the corporation, require any information reasonably necessary to determine whether the corporation's intercompany transactions have economic substance and are at fair market value and for the accurate computation of the corporation's State net income properly attributable to its business carried on in the State. The corporation must provide the information requested within 90 days of the date of the notice.

N.C.G.S. § 105-130.5A(b) Adjust Net Income. - If upon review of the information provided, the Secretary finds as a fact that the corporation's intercompany transactions lack economic substance or are not at fair market value, the Secretary may redetermine the State net income of the corporation properly attributable to its business carried on in the State under this section by (i) adding back, eliminating, or otherwise adjusting intercompany transactions to accurately compute the corporation's State net income properly attributable to its business carried on in the State, or, if such adjustments are not adequate under the circumstances to redetermine State net income, (ii) requiring the corporation to file a return that reflects the net income on a combined basis of all members of its affiliated group that are conducting a unitary business. The Secretary shall consider and be authorized to use any reasonable method proposed by the corporation for redetermining its State net income attributable to its business carried on in the State. In determining whether the corporation's intercompany transactions lack economic substance or are not at fair market value, the Secretary shall consider each taxable year separately.

N.C.G.S. § 105-130.5A(c) Voluntary Redetermination. - In addition to the authority granted under subsection (b) of this section, if the Secretary has reason to believe that any corporation's State net income properly attributable to its business carried on in this State is not accurately reported on a separate return required by this Part because of intercompany transactions, without making a finding that those transactions lack economic substance or are not at fair market value, the Secretary and the corporation may jointly determine and agree to an alternative filing methodology that accurately reports State net income. The Secretary is authorized to allow any reasonable method for redetermining the corporation's State net income attributable to its business carried on in this State.

N.C.G.S. § 105-130.5A(d) Combined Return. - If the Secretary finds as a fact that a combined return is required, the Secretary may, upon written notice to the corporation, require the corporation to submit the combined return, and the corporation shall submit the combined return within 90 days of the date of the notice. The submission by the corporation of the combined return required by the Secretary shall not be deemed to be a return or construed as an agreement by the corporation that an assessment based on the combined return is correct or that additional tax is due by the Secretary's deadline for submitting the combined return. The Secretary or the corporation may propose a combination of fewer than all members of the unitary group, and the Secretary shall be authorized to consider whether such proposed combination is a reasonable means of redetermining State net income; provided, however, the Secretary shall not require a combination of fewer than all members of the unitary group without the consent of the corporation.

N.C.G.S. § 105-130.5A(f) Members of Affiliated Group. - The Secretary may require a combined return under this section regardless of whether the members of the affiliated group are or are not doing business in this State.

N.C.G.S. § 105-130.5A(h) Allocation of Income and Deductions. - In determining whether transactions between members of the affiliated group of entities are not at fair market value, the Secretary shall apply the standards contained in the regulations adopted under section 482 of the Code.

N.C.G.S. § 105-130.5A(i) Apportionment. - If the Secretary requires a combined return under this section, the combined State net income of the corporation and the members of the affiliated group of entities shall be apportioned to this State by use of an apportionment formula that accurately reports

the State net income properly attributable to the corporation's business carried on in the State and which fairly reflects the apportionment formula in G.S. 105-130.4 applicable to the corporation and each member of the affiliated group included in the combined return.
N.C.G.S. § 105-130.5A(j) Affiliated Group Defined. - For purposes of this section, an affiliated group is a group of two or more corporations or noncorporate entities in which more than fifty percent (50%) of the voting stock of each member corporation or ownership interest of each member noncorporate entity is directly or indirectly owned or controlled by a common owner or owners, either corporate or noncorporate, or by one or more of the member corporations or noncorporate entities. Nothing in this subsection shall be construed to limit or negate the Secretary's authority to add back, eliminate, or otherwise adjust intercompany transactions involving the listed entities to accurately compute the corporation's State net income properly attributable to its business carried on in the State, as provided in subsection (b) of this section.
The following entities shall not be included in a combined return:
N.C.G.S. § 105-130.5A(j)(1) A corporation not required to file a federal income tax return.
N.C.G.S. § 105-130.5A(j)(2) An insurance company, other than a captive insurance company, (i) which is subject to tax under Article 8B of this Chapter, (ii) whose premiums are subject to tax under Article 21 of Chapter 58 or a similar tax in another state, (iii) which is licensed as a reinsurance company, (iv) which is a life insurance company as defined in Section 816 of the Code, or (v) which is an insurance company subject to tax imposed by Section 831 of the Code. A "captive insurance company" means an insurer that is part of an affiliated group where the insurer receives more than fifty percent (50%) of its net written premiums or other amounts received as compensation for insurance from members of the affiliated group.
N.C.G.S. § 105-130.5A(j)(3) A corporation exempt from taxation under section 501 of the Code.
N.C.G.S. § 105-130.5A(j)(4) An S corporation.
N.C.G.S. § 105-130.5A(j)(5) A foreign corporation as defined in section 7701 of the Code, other than a domestic branch thereof.
N.C.G.S. § 105-130.5A(j)(6) A partnership, limited liability company, or other entity not taxed as a corporation.
N.C.G.S. § 105-130.5A(j)(7) A corporation with at least eighty percent (80%) of its gross income from all sources in the tax year being active foreign business income as defined in section 861(c)(1)(B) of the Code in effect as of July 1, 2009.

Rhode Island:

G.L.1956 § 44-11-4.1(a) For tax years beginning on or after January 1, 2015, each C corporation which is part of an unitary business with one or more other corporations must file a return, in a manner prescribed by the tax administrator, for the combined group containing the combined income, determined under this section, of the combined group.
G.L.1956 § 44-11-4.1(b) An affiliated group of C corporations, as defined in section 1504 of the Internal Revenue Code, may elect to be treated as a combined group with respect to the combined reporting requirement imposed by § 44-11-4.1 (a) for the taxable year in lieu of an unitary business group. The election shall be upon the condition that all C corporations which at any time during the taxable year have been members of the affiliated group consent to be included in such group. The filing of a consolidated return for the combined group shall be considered as such consent. Such election may not be revoked in less than five (5) years unless approved by the tax administrator.
G.L.1956 § 44-11-4.1(c) The use of a combined report does not disregard the separate identities of the taxpayer members of the combined group. Each taxpayer member is responsible for tax based on its taxable income or loss apportioned to this state.

G.L.1956 § 44-11-4.1(d) Members of a combined group shall exclude as a member and disregard the income and apportionment factors of any corporation not incorporated in the United States (a"non US corporation") if the sales factors outside the United States is eighty percent (80%) or more. If a non US corporation is includible as a member in the combined group, to the extent that such non US corporation's income is subject to the provisions of a federal income tax treaty, such income is not includible in the combined group net income. Such member shall also not include in the combined report any expenses or apportionment factors attributable to income that is subject to the provisions of a federal income tax treaty. For purposes of this chapter, "federal income tax treaty" means a comprehensive income tax treaty between the United States and a foreign jurisdiction, other than a foreign jurisdiction which is defined as a tax haven; provided, however, that if the tax administrator determines that a combined group member non US corporation is organized in a tax haven that has a federal income treaty with the United States, its income subject to a federal income tax treaty, and any expenses or apportionment factors attributable to such income, shall not be included in the combined group net income or combined report if:
G.L.1956 § 44-11-4.1(d)(i) the transactions conducted between such non US corporation and other members of the combined group are done on an arm's length basis and not with the principal purpose to avoid the payment of taxes due under this chapter; or
G.L.1956 § 44-11-4.1(d)(ii) the member establishes that the inclusion of such net income in combined group net income is unreasonable.
G.L.1956 § 44-11-4.1(e) Net Operating Losses. A tracing protocol shall apply to net operating losses created before January l, 2015. Such net operating losses shall be allowed to offset only the income of the corporation that created the net operating loss; the net operating loss cannot be shared with other members of the combined group. No deduction is allowable for a net operating loss sustained during any taxable year in which a taxpayer was not subject to Rhode Island business corporation tax. For net operating losses created in tax years beginning on or after January 1, 2015 such loss allowed shall be the same as the net operating loss deduction allowed under section 172 of the internal revenue code for the combined group, except that:
G.L.1956 § 44-11-4.1(e)(1) Any net operating loss included in determining the deduction shall be adjusted to reflect the inclusions and exclusions from entire net income required by §44-11-11 (a) and § 44-11-11.1;
G.L.1956 § 44-11-4.1(e)(2)
G.L.1956 § 44-11-4.1(e)(3) The deduction shall not exceed the deduction for the taxable year allowable under section 172 of the internal revenue code; provided, that the deduction for a taxable year may not be carried back to any other taxable year for Rhode Island purposes but shall only be allowable on a carry forward basis for the five (5) succeeding taxable years.
G.L.1956 § 44-11-4.1(f) Tax Credits and Tax Rate Reduction.
G.L.1956 § 44-11-4.1(f)(1) A tracing protocol shall apply to Rhode Island tax credits earned before tax years beginning on or before January 1, 2015. Such Rhode Island tax credits shall be allowed to offset only the tax liability of the corporation that earned the credits; the Rhode Island tax credits cannot be shared with other members of the combined group. Rhode Island tax credits earned in tax years beginning on or after January 1, 2015, may be applied to other members of the group.
G.L.1956 § 44-11-4.1(f)(2) The tax rate reductions authorized under § 42-64.5 (Jobs Development Act) and § 42-2 64.14 (1-195 Redevelopment Act of 2011) shall be allowed against the net income of the entire combined group.

280-RICR-20-25-10.11(B)(1) Except as otherwise provided in this regulation, the taxable income of the combined group shall be determined under the provisions of R.I. Gen. Laws Chapter 44-11. The use of a

group return does not disregard the separate identities of the taxpayer members of the group; each taxpayer member is responsible for tax based on its taxable income or loss apportioned to Rhode Island.
280-RICR-20-25-10.11(C) Components of income subject to tax in this state.
280-RICR-20-25-10.11(C)(1) Each taxpayer member is responsible for tax based on its taxable income or loss apportioned to this state, which shall include a pro-rata share of a pass-through entity's income.
280-RICR-20-25-10.11(D) Determination of taxpayer's share of the taxable income of a combined group apportionable to this state.
280-RICR-20-25-10.11(D)(1) The taxpayer member's share of the taxable income apportionable to Rhode Island of each combined group of which it is a member shall be the product of:
280-RICR-20-25-10.11(D)(1)(a) the adjusted taxable income of the combined group, determined under this regulation, and
280-RICR-20-25-10.11(D)(1)(b) the taxpayer member's apportionment percentage, including in the numerator the taxpayer's total sales (receipts) associated with the combined group's business in Rhode Island, and including in the denominator the total sales (receipts) of all members of the combined group, including the taxpayer member, which total sales (receipts) are associated with the combined group's business wherever located.
280-RICR-20-25-10.11(D)(2) The combined return uses the income, losses, and factors of all members included on the combined return to more accurately determine the taxable income of those entities actually doing business in Rhode Island.
280-RICR-20-25-10.11(E) Pass-through entities.
280-RICR-20-25-10.11(E)(1) A combined group member's numerator and denominator for purposes of the sales factor includes the apportionment factors (gross receipts) of pass-through entities owned directly or indirectly by the member, in proportion to the combined group member's distributive share of the pass-through entity's net income or loss included in the combined group's income. However, a combined group member's sales factor may shall not include apportionment factors of a real estate investment trust, regulated investment company, real estate mortgage investment conduit, or financial asset securitization investment trust.

280-RICR-20-25-10.11(G)(1) The group's taxable year is determined as follows:
280-RICR-20-25-10.11(G)(1)(a) if two or more members of a group file a federal consolidated return, the group's taxable year is the taxable year of the federal consolidated group;
280-RICR-20-25-10.11(G)(1)(b) in all other cases, the taxable year is the taxable year of the designated agent.

South Carolina:

V. Methodology Used By South Carolina For Combined Unitary Reporting
The unitary business concept is not, “so to speak, unitary: there are variations on the theme and any number of them are logically consistent with the underlying principles motivating the approach.” Container Corp. of America, 463 U.S. at 167. South Carolina generally will determine unitary combined income and South Carolina apportionment using the following methodology.
A. Unitary Business Requirement
Since only members of a unitary business can be part of the unitary combined report, the first step is to determine the members of the unitary business group. Over the years, the courts have developed various tests for determining whether different components of a business, whether carried out in a single entity or multiple entities, are unitary. As previously discussed, in general, these tests focus on a flow of value between businesses through functional integration, centralization of management, and

economies of scale. When identifying members of a unitary business, the Department will construe the term unitary to the broadest extent permitted under the U.S. Constitution.

B. Water's Edge Combined Reporting

South Carolina will generally use a “water's edge” approach for determining the apportionable income of a combined unitary business group. All or a portion of the income and apportionment factors for any unitary business described below will be part of the water's edge combined reporting:

1. The entire income and apportionment factors of any member incorporated in the United States or formed under the laws of any state, the District of Columbia, or any territory or possession of the United States;

2. The entire income and apportionment factors of a member which is a domestic international sales corporation as described in Internal Revenue Code Sections 991-994 or any member which is an export trade corporation as described in Internal Revenue Code Sections 970-971;

3. Any member that is a “controlled foreign corporation” as defined in Internal Revenue Code Section 957, to the extent of the income of that member as defined in Internal Revenue Code Section 952 of Subpart F of the Internal Revenue Code (Subpart F income);

4. Any member that earns more than 20 percent of its income, directly or indirectly, from intangible property or service related activities that are deductible against the business income of other members of the combined unitary group to the extent of that income and the apportionment factors related to that income.

The Department generally will include all members of the “water's edge” unitary business group for combined unitary reporting. If the parties agree, a group other than the entire water's edge unitary business group may be included for combined unitary reporting purposes.

E. Step By Step Approach To Calculating Combined Unitary Income In South Carolina

When the Department requires or allows a unitary group of corporations to use combined unitary reporting, the following methodology will be used. The term “taxpayer” as used in this discussion is the combined unitary group.

1. The starting point for calculating South Carolina combined unitary income is the federal taxable income computed on a pro forma Federal 1120 for each corporation in the unitary group. Each pro forma Federal 1120 must represent federal taxable income “as if” each corporation were not part of a consolidated federal return. The unitary group for South Carolina combined unitary reporting may include corporations that are not part of the consolidated return because they do not meet the federal ownership requirement for filing as part of the consolidated group. 18

2. The taxpayer must combine the pro forma Federal 1120s of the corporations to be included in the combined unitary group resulting in a combination of each corporation's line items in determining combined income.

3. The taxpayer next eliminates the intercompany transactions between members of the combined unitary group in arriving at combined federal taxable income.

4. The taxpayer then makes South Carolina modifications (additions and subtractions) and allocates any income as provided under South Carolina law to determine combined income subject to apportionment.

5. The Department generally will apportion the unitary income using the single factor sales/gross receipts formula. 19 As previously discussed, the Department will use the Finnigan method to apportion income to South Carolina. The taxpayer includes in the apportionment factor the sales or gross receipts of all corporations included in the combined unitary group. All sales or gross receipts in South Carolina of entities within the combined unitary group are included in the sales or gross receipts factor numerator. Where an intercompany transaction has occurred and been eliminated in the calculation of combined income, this amount is also eliminated from the numerator and denominator of the factor.

One apportionment factor is calculated for the entire combined unitary group. The combined apportionment factor will be applied to the combined apportionable income to determine income apportioned to South Carolina. This income apportioned to South Carolina will then be divided among the members of the group that have nexus with South Carolina and are not protected by PL 86-272 ("intrastate apportionment").

6. For each member of the unitary group, the taxpayer will add any nonapportionable income allocated to South Carolina to the income apportioned to this State to determine total income subject to South Carolina tax. Any income subject to South Carolina tax as a result of allocation by members that do not have nexus or are protected by PL 86-272 will be allocated to the members subject to tax in South Carolina using the same percentages used for intrastate apportionment in #5.

7. A net operating loss sustained by the combined unitary group in a combined return year is allocated among the members of the group that reported losses on their pro forma Federal 1120s, after elimination of intercompany transactions between members of the combined unitary group and appropriate allocations. The amount allocated to each member will be determined by dividing that member's loss (after elimination of intercompany transactions) by the total losses (after elimination of intercompany transactions) of all members of the combined unitary group in that tax year. To the extent the net operating losses are not used by the group during the years the corporation is part of the group, the group's net operating losses allocated to a corporation that is a member of the group may be claimed by the corporation in the tax years after the corporation ceases to be a part of the group. Net operating loss carryforwards will be considered used in order beginning with the earliest tax year. If more than one corporation brought net operating losses from the same tax year into the combined unitary group and a portion of the losses from that year is used, the amount of used net operating losses will be prorated among the members bringing losses from that year based on the ratio of each member's losses to the total losses carried forward from that year.

8. The eligibility for and calculation of a tax credit amount is determined at the separate entity level but can be used against the unitary group income. Any unused carryforward of a tax credit earned by a member of the combined unitary group remains with that entity if that entity is no longer a member of the combined unitary group or the group is no longer required to file a combined return. This is applicable whether the credit was earned by the entity before becoming a member of the combined unitary group or while a member of the combined unitary group.

Wisconsin:

Wis. Stat. § 71.255(2)(a) A corporation, not including a corporation of which all its income is exempt from taxation under s. 71.26 (1) or 71.45 (1) , engaged in a unitary business with one or more other corporations in the same commonly controlled group shall report its share of income from that unitary business in the amount determined by a combined report filed by a designated agent of the unitary business, as determined under sub. (7). The combined report shall include the income, determined under sub. (3), and apportionment factor or factors determined under sub. (5), of every corporation in the commonly controlled group that is engaged in the unitary business, except as provided in pars. (b) to (f).

Wis. Stat. § 71.255(2)(b) A foreign corporation that is a combined group member shall include in the combined report income that is derived only from sources within the United States as provided in sections 861 to 865 of the Internal Revenue Code. The foreign corporation shall include in the combined report its apportionment factor or factors related only to that income.

Wis. Stat. § 71.255(2)(c)

Wis. Stat. § 71.255(2)(c)(1) Except as provided in par. (d), if 80 percent or more of a corporation's worldwide income is active foreign business income, the income and apportionment factor or factors of the corporation shall not be included in the combined report, but the corporation shall compute and allocate or apportion its income from the unitary business separately.
Wis. Stat. § 71.255(2)(c)(2) For purposes of subd. 1., "active foreign business income" means gross income derived from sources outside the United States, as determined in sub-chapter N of the Internal Revenue Code, including income of a subsidiary corporation, and attributable to the active conduct of a trade or business in a foreign country or in a U.S. possession.
Wis. Stat. § 71.255(2)(c)(3) For purposes of subd. 2., a corporation is considered a subsidiary if the parent corporation owns, directly or indirectly, stock with at least 50 percent of the total voting power of the corporation and the stock has a value equal to at least 50 percent of the total value of the stock of the corporation.
Wis. Stat. § 71.255(2)(d) The combined report of the unitary business of which a consolidated foreign operating corporation is a member shall include, and the separate return filed by the consolidated foreign operating corporation shall exclude, the following amounts, to the extent that they are attributable to the unitary business:
Wis. Stat. § 71.255(2)(d)(1) An income amount equal to the interest expenses and intangible expenses that are paid, accrued, or incurred by any combined group member to or for the benefit of the consolidated foreign operating corporation, except to the extent such amounts constitute income to the consolidated foreign operating corporation from sources outside the United States under sections 861 to 865 of the Internal Revenue Code.
Wis. Stat. § 71.255(2)(d)(2) To the extent that the amounts were not included under subd. 1., interest income and income generated from intangible property received or accrued by the consolidated foreign operating corporation, except to the extent such amounts constitute income from sources outside the United States under sections 861 to 865 of the Internal Revenue Code. For purposes of this subdivision, income generated from intangible property includes income related to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property; income from factoring transactions or discounting transactions; royalty, patent, technical, and copyright fees; licensing fees; and other similar income.
Wis. Stat. § 71.255(2)(d)(3) Dividends paid or accrued by a real estate investment trust to the consolidated foreign operating corporation, if the real estate investment trust is not a qualified real estate investment trust as defined in s. 71.22 (9ad) and the dividend income is from sources within the United States under sections 861 to 865 of the Internal Revenue Code.
Wis. Stat. § 71.255(2)(d)(4) Income of the consolidated foreign operating corporation that is equal to gains derived from the sale of real or personal property located in the United States.
Wis. Stat. § 71.255(2)(d)(5) The apportionment factor or factors attributable to the income described in subds. 1. to 4.
Wis. Stat. § 71.255(2)(e) Except for the amounts in par. (d), a consolidated foreign operating corporation shall compute and allocate or apportion its income from the unitary business separately.
Wis. Stat. § 71.255(4)(a) The business income of a combined group is the sum of the income of each member of the combined group as determined under the Internal Revenue Code, as modified under s. 71.26 or 71.45 , and except as provided under pars. (b) to (j). If a unitary business includes income from a pass-through entity, the pass-through entity income to be included in the total income of the combined group shall be the member of the combined group's direct and indirect distributive share of the pass-through entity's unitary business income.
Wis. Stat. § 71.255(4)(c) For combined group members that are consolidated foreign operating corporations, include only the income described in sub. (2) (d) 2. to 4. A combined group may deduct

expenses properly attributable to a consolidated foreign operating corporation's income described in sub. (2) (d) 2. to 4., subject to ss. 71.30 (2) and (2m) and 71.80 (1) (b) and (1m) .
Wis. Stat. § 71.255(4)(d) The modifications provided under ss. 71.26 (2) (a) 7. , 8., and 9. and 71.45 (2) (a) 16., 17., and 18. shall not apply with respect to interest expenses or intangible expenses paid, accrued, or incurred by a combined group member to or for the benefit of a consolidated foreign operating corporation.
Wis. Stat. § 71.255(4)(f) Except as provided in sub. (2) (d) 3. and except if the modification under s. 71.26 (3) (j) applies, dividends paid by one combined group member to another shall be, to the extent that the dividends are paid out of the earnings and profits of the unitary business included in the combined report, whether in the current taxable year or in a prior taxable year, subtracted from the income of the recipient. This paragraph does not apply to dividends received from members of the unitary business that were not part of the combined group at the time that the dividends were paid.
Wis. Stat. § 71.255(4)(g) Except as otherwise provided by rule, business income or loss from an intercompany transaction between members of the same combined group shall be deferred as provided under U.S. Treasury Regulation 1.1502-13. Upon the occurrence of any of the following events, deferred business income or loss resulting from an intercompany transaction between members of a combined group shall be included in the income of the seller and shall be apportioned as business income or loss recognized immediately before the event:
Wis. Stat. § 71.255(4)(g)(1) The object of the deferred intercompany transaction is resold by the buyer to an entity that is not a member of the combined group.
Wis. Stat. § 71.255(4)(g)(2) The object of the deferred intercompany transaction is resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged.
Wis. Stat. § 71.255(4)(g)(3) The object of the deferred intercompany transaction is converted by the buyer or is otherwise transferred to a use outside the unitary business in which the buyer and seller are engaged.
Wis. Stat. § 71.255(4)(g)(4) The buyer and seller are no longer members of the same combined group, regardless of whether the members are in the same unitary business.
Wis. Stat. § 71.255(4)(h) Limitations that apply to charitable contribution deductions shall be applied as provided under section 170 of the Internal Revenue Code in the manner prescribed by the department by rule, as provided under sub. (11).
Wis. Stat. § 71.255(4)(i) Gain or loss from the sale or exchange of capital assets, property described by section 1231 (a) (3) of the Internal Revenue Code, and property subject to an involuntary conversion shall be determined as provided under sections 1211, 1222, and 1231 of the Internal Revenue Code in the manner prescribed by the department by rule, as provided under sub. (11).
Wis. Stat. § 71.255(4)(j) Any expense of one member of the combined group that is directly or indirectly attributable to the nonbusiness or exempt income of another member of the unitary business shall be allocated to that other member of the unitary business as corresponding nonbusiness or exempt expense, as appropriate.