

**Proposed MTC Model**  
**(minor changes from the original MTC model)**

(a) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group is the taxable income for the corporation after making appropriate adjustments under [state tax code provisions for adjustments to taxable income].

(b) (1) For any member not included in Section 3.C.ii.(a), the income to be included in the total income of the combined group is determined as follows:

(A) A profit and loss statement 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.

(B) The profit and loss statement must be adjusted to conform it to the accounting principles generally accepted in the United States for the preparation of such statements except as modified by this regulation.

(C) The profit and loss statement must be adjusted to conform it to the tax accounting standards required by the [state tax code]

(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, must be translated into the currency in which the parent company maintains its books and records.

(E) Income apportioned to this state must be expressed in United States dollars.

(2) In lieu of the procedures set forth in Section 3.C.ii.(b)(1), above, and subject to the determination of the Director that it reasonably approximates income as determined under [the State tax code], the combined group may determine the income for any member not included in Section 3.C.ii.(a) on the basis of the consolidated profit and loss statement which includes the member and which is prepared for filing with the Securities and Exchange Commission by related corporations. If the member is not required to file with the Securities and Exchange Commission, the Director may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor. If above statements do not reasonably approximate income as determined under [the State tax code] the Director may accept those statements with appropriate adjustments to approximate that income.

**California Code of Regulations, Cal. Code Regs. tit. 18, § 25106.5-10Section 25106.5-10.**

(a) In General.

(2) Translation Method for Determining Income. The translation method to be used for determining income shall be the "profit and loss method" as set forth in this regulation. This method excludes unrealized exchange rate gain or loss resulting from the restatement of assets or liabilities, while taking into account exchange gains or losses attributable to income transactions.

(b) Determination of Income.

(1) The income of a unitary business with operations in foreign countries shall be computed in the following manner:

(A) A profit and loss statement 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.

(B) Adjustments shall be made to the profit and loss statement to conform it to the accounting principles generally accepted in the United States for the preparation of such statements except as modified by this regulation.

(C) Adjustments shall be made to the profit and loss statement to conform it to the tax accounting standards required under Division 2, Part 11 of the Revenue and Taxation Code.

(D) The profit and loss statement of each branch or corporation, whether U.S. or foreign, shall be translated into the currency in which the parent company maintains its books and records in accordance with subsection (b)(4).

(E) Business and nonbusiness income as determined under California law shall be identified and segregated. For general definition, rules and examples for determining business and nonbusiness income, see Regulation 25120.

(F) Nonbusiness income shall be allocated to a specific state pursuant to the provisions of Sections 25124 to 25127, inclusive of Division 2, Part 11 of the Revenue and Taxation Code.

(G) Business income shall be included in the combined report prepared for the unitary business and shall be apportioned on the basis of the appropriate formula for the business.

(H) Income from California sources shall be expressed in dollars in accordance with subsection (b)(4) and the taxes computed accordingly.

Our model should not refer to itself as a "regulation." But we should also consider whether regulations (or a drafter's note) is necessary referring to other regulations.

These provisions are contained elsewhere in the MTC model statute.

(2) In lieu of the procedures set forth in subsection (b)(1) and subject to the determination of the Franchise Tax Board that it reasonably reflects income, a unitary business with operations in a foreign country may determine its income on the basis of the consolidated profit and loss statement prepared for the related corporations of which the unitary business is a member which is prepared for filing with the Securities and Exchange Commission. If the business is not required to file with the Securities and Exchange Commission, the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor may be used.

The remaining provisions in this California regulation were not included in our model statute.

This first paragraph (A) simply repeats the provisions in the section above.

(A) Adjustments shall be made, if necessary to:

1. conform to the accounting principles generally accepted in the United States for the preparation of such statements, except as modified by this regulation;
2. conform to the tax accounting standards as required under Division 2, Part 11 of the California Revenue and Taxation Code; and
3. eliminate unrealized gain and losses resulting from the restatement or revaluation of assets or liabilities to reflect changes or fluctuations in currency values.

These provisions, like the identical ones in the subsection above, are contained elsewhere in the MTC model statute.

The following subparagraph (A)(1) of the California regulations makes clear in more detail what is necessary for foreign operations to provide a profit and loss statement for purposes of combined filing. The “include but are not limited to” language indicates that there may be other applicable rules.

It appears this provision follows from the federal approach—set out in IRC Subpart J, §§ 985-989. It may be that California, which specifically conforms to certain provisions of the internal revenue code, felt it was necessary to separately include these provisions in its regulations(?)

This is a reference to the adjustments required under California law to conform both the provisions that are different from the IRC and to general CA rules specific to state tax calculation. This appears to be covered in our model by the reference to applicable state law (e.g. adjustments, additions, subtractions) in paragraph (b)(1)(C) above.

(B) Business and nonbusiness income as determined under California law shall be identified and segregated. For definitions, rules and examples for determining business and nonbusiness income, see generally Regulation 25120.  
(C) Nonbusiness income shall be allocated to specific states pursuant to the provisions of Sections 25124 to 25127, inclusive of the Revenue and Taxation Code.  
(D) Business income shall be included in the combined report prepared for each unitary business and will be apportioned on the basis of the appropriate formula for each business.  
(E) Income from California sources shall be expressed in dollars in accordance with subsection (b)(4) and the taxes computed accordingly.

(3) For purposes of subsections (b)(1)(B), (b)(1)(C), and (b)(2)(A) [that is “accounting principles generally accepted in the United States”, and tax accounting standards required under Division 2, Part 11 of the Revenue and Taxation Code”] the following rules shall apply:

- (A) Accounting adjustments to be made to conform profit and loss statements to those utilized in the United States -
1. Include but are not limited to the following:
    - a. Clear reflection of income. Any accounting practice designed for purposes other than the clear reflection on a current basis of income and expense for the taxable year shall not be given effect. For example, an adjustment shall be required where an allocation is made to an arbitrary reserve out of current income.
    - b. Physical assets, depreciation, etc. All physical assets, including inventory when reflected at cost, shall be taken into account at historical cost computed either for individual assets or groups of similar assets. The historical cost of such an asset shall not reflect any appreciation or depreciation in its value or in the relative value of the currency in which its cost was incurred. Depreciation, depletion, and amortization allowances shall be based on the historical cost of the underlying asset, and no effect shall be given to any such allowance determined on the basis of a factor other than historical cost.
    - c. Valuation of assets and liabilities. Any accounting practice which results in the systematic undervaluation of assets or overvaluation of liabilities shall not be given effect, even though expressly permitted or required under foreign law, except to the extent allowable under subsection (b)(3)(B). For example, an adjustment shall be required where inventory is written down below market value.
    - d. Income equalization. Income and expense shall be taken into account without regard to equalization over more than one accounting period; and any equalization reserve or similar provision affecting income or expense shall not be given effect, even though expressly permitted or required under foreign law.
  2. Currency gains or losses on closed transaction are includible, but no adjustments shall be made, or otherwise reflected, for unrealized gains or losses resulting from the restatement or revaluation of assets or liabilities to reflect changes or fluctuations in currency values. A closed transaction is one where any foreign exchange position taken by a corporation has been terminated by exchanging the foreign currency for the currency in which the individual corporation maintains its books and records and normally conducts its business affairs. In the case of a borrowing in a foreign currency, the transaction shall not be deemed closed until repayment is made.

- (B) The **tax accounting adjustments** [presumably refers specifically to (b)(1)(C)] be made shall include, but are not limited to, the following:
1. Accounting methods. The method of accounting shall reflect the provisions of Section 24651 of the Revenue and Taxation Code and the regulations thereunder.
  2. Inventories. Inventories shall be taken into account in accordance with the provisions of Sections 24701 through 24706 of the Revenue and Taxation Code and the regulations thereunder, except Regulation 24702--24706(b)(5).
  3. Depreciation, depletion, and amortization. Depreciation, depletion, and amortization are to be computed in accordance with California law.
  4. Elections.
    - a. Elections required to be made for purposes of determining income under Division 2, Part 11 of the Revenue and Taxation Code of all California reporting entities shall be made in accordance with applicable provisions of such law and the regulations adopted pursuant thereto.
    - b. Elections required to be made for purposes of determining income under Division 2, Part 11 of the Revenue and Taxation Code for entities which are not subject to taxation by California but are required to be included

in the combined report for the unitary business shall be made by agreement of all entities required to report to California in accordance with applicable provisions of such law and the regulations adopted pursuant thereto. If agreement cannot be reached, see California Code of Regulations Section 25106.5-3.

(C) No adjustment shall be required under subsections (b)(3)(A) and (b)(3)(B) unless it is material. Whether an adjustment is material depends upon the facts and circumstances of the particular case, including the amount of the adjustment, its size relative to the general level of the corporation's total assets and annual profit or loss, the consistency with which the practice has been applied, and whether the item to which the adjustment relates is of a recurring or a nonrecurring nature.

(4) For purposes of determining income, necessary translations shall be made at the following exchange rates:

(A) Depreciation, depletion, or amortization shall be translated at the appropriate exchange rate for the translation period in which the historical cost of the underlying asset was incurred.

(B) All other items shall be translated at either the end-of-year exchange rate or at the simple average exchange rate for the translation period. Income repatriated during the year shall be translated at the exchange rate at date of repatriation. It is presumed that the translation rate used in preparing the consolidated profit and loss statement for financial reporting purposes is proper absent a showing that some other method is appropriate.

A change from end-of-year rates or average rates may not be made without the permission of and on such conditions as the Franchise Tax Board may prescribe.

(c) Computation of Factors. In computing the formula factors, the following rules shall apply:

(1) Property Factor.

(A) Fixed assets shall be valued at original cost as defined in Reg. 25130(a) and translated at the exchange rate as of the date of acquisition.

(B) Rented property, capitalized at eight times its annual rental rate, shall be translated at the simple average of the beginning and end-of-year exchange rate.

(C) Inventories shall be valued at original cost and shall be translated at the exchange rate as of the date of acquisition.

(D) For purposes of calculating the property factor of financial corporations, financial assets are translated at the year-end rate and are defined as assets reflecting a fixed amount of currency, such as cash on hand, bank deposits, and loans and accounts receivable. Securities held, or reasonably expected to be held, for less than six months shall be translated at year-end rates. If a security is held, or reasonably expected to be held, for more than six months, it shall be translated at the appropriate exchange rate for the translation period in which the historical cost of the asset is determined.

(E) The property factor shall be computed in the currency of the parent company unless the taxpayer requests and the Franchise Tax Board determines that computing the factor in dollars or any other currency fairly reflects the taxpayer's activities in California.

(2) Payroll and Receipts Factors.

(A) Translation shall be made at the simple average of the beginning and end-of-year exchange rates unless there is a substantial fluctuation, as described in subsection (d)(2).

(B) Where the value of the foreign currency does fluctuate substantially, as described in subsection (d)(2), the exchange rate appropriate to that period shall be either (1) a simple average of the month-end rates, or (2) a weighted average taking into account the volume of transactions (reflected by the amount being translated) for the calendar months ending with or within that period.

(C) In computing the payroll and receipts factors, translation shall be made into the parent company's currency in order to properly determine the percentage factor to be used unless the taxpayer requests and the Franchise Tax Board determines that computing the factors in dollars or any other currency fairly reflects the taxpayer's activities in California.

(3) For apportionment formula purposes in taxable years beginning on or after January 1, 2013, pursuant to Section 25128.7, Revenue and Taxation Code, only the receipts factor references in subsection (c) of this regulation are applicable, unless subdivision (b) of Section 25128, Revenue and Taxation Code, applies.

We do not have anything similar to this in our draft. There are general rules provided for at the federal level. See IRC § 986(a), which allows the use of the exchange rate as of a particular date or the average exchange rates for particular periods.

This subsection of the California regulations addresses not the P&L computation but the computation of the factors of foreign operations. In our model – apportionment factors are simply referred to as part of subsection (b)(1)(D)'s general rules (see bolded language above).

Our model also does not have anything like these sections which address the source of exchange rate information, treatment of periods of fluctuations, and the ability to receive an advance determination.

(d) Exchange Rates.

(1) For purposes of preparing combined reports, exchange rates may be derived from any source which is demonstrated to the satisfaction of the Franchise Tax Board to reflect actual transactions conducted in a free market and involving representative amounts. In the absence of such demonstration, the exchange rates taken into account in computation of the earnings and profits of the foreign corporation shall be determined by reference to the free market rate set forth in the pertinent monthly issues of International Financial Statistics or successor publications of the International Monetary Fund.

(2) In general, the extent of fluctuation is substantial if the closing rate for any calendar month ending within the period varies by more than 10 percent from the closing rate for any preceding calendar month ending within the period.

(e) Application of Regulation.

(1) In computing the income and any of the factors required for a combined report, the Franchise Tax Board shall consider the effort and expense required to obtain the necessary information. In appropriate cases, such as when the necessary data cannot be developed from financial records maintained in the regular course of business, the Franchise Tax Board shall accept reasonable approximations.

(2) A taxpayer may request an advance determination under subsections (b)(2), (b)(3)(C), (c)(1), (d)(1) or any other provision of this regulation by submitting a determination request to the Legal Branch of the Franchise Tax Board. Such a determination shall be made on an individual basis and shall be limited to the particular facts or circumstances set forth in the determination request. The facts and circumstances upon which a determination is made remain subject to review. Failure to request or to obtain a favorable advance determination will not preclude consideration of requested variances in subsequent proceedings.

**Proposed MTC Model  
(minor changes from the original MTC model)**

(a) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group is the taxable income for the corporation after making appropriate adjustments under [state tax code provisions for adjustments to taxable income].

(b) (1) For any member not included in Section 3.C.ii.(a), the income to be included in the total income of the combined group is determined as follows:

(A) A profit and loss statement 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.

(B) The profit and loss statement must be adjusted to conform it to the accounting principles generally accepted in the United States for the preparation of such statements except as modified by this regulation.

(C) The profit and loss statement must be adjusted to conform it to the tax accounting standards required by the [state tax code]

(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, must be translated into the currency in which the parent company maintains its books and records.

(E) Income apportioned to this state must be expressed in United States dollars.

(2) In lieu of the procedures set forth in Section 3.C.ii.(b)(1), above, and subject to the determination of the Director that it reasonably approximates income as determined under [the State tax code], the combined group may determine the income for any member not included in Section 3.C.ii.(a) on the basis of the consolidated profit and loss statement which includes the member and which is prepared for filing with the Securities and Exchange Commission by related corporations. If the member is not required to file with the Securities and Exchange Commission, the Director may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor. If above statements do not reasonably approximate income as determined under [the State tax code] the Director may accept those statements with appropriate adjustments to approximate that income.

**Connecticut, C.G.S. § 12-218e**

(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 .

This provision would appear to include only that income reported on a 1120F.

(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.

**District of Columbia Code, D.C. Code § 47-1810.0**

(1) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group shall be the taxable income for the corporation after making appropriate adjustments under this chapter.

(2) For any member not included in paragraph (1) of this subsection, the income to be included in the total income of the combined group shall be determined as follows:

(A) A profit and loss statement 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.

(B) Adjustments shall be made to the profit and loss statement to conform it to the accounting principles generally accepted in the United States for the preparation of such statements, except as modified by regulation.

(C) Adjustments shall be made to the profit and loss statement to conform it to the tax accounting standards required by this chapter.

(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, shall be translated into the currency in which the parent company maintains its books and records.

(E) Income apportioned to the District shall be expressed in United States dollars.

(3) (A) In lieu of the procedures set forth in paragraph (2) of this subsection, and subject to the determination of the Chief Financial Officer that it reasonably approximates income as determined under this chapter, any member not subject to paragraph (1) of this subsection may determine its income on the basis of the consolidated profit and loss statement that includes the member and that is prepared for filing with the Securities and Exchange Commission by related corporations.

(B) If the member is not required to file with the Securities and Exchange Commission, the Chief Financial Officer may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor.

(C) If the statements described in subparagraphs (A) or (B) of this paragraph do not reasonably approximate income as determined under this chapter, the Chief Financial Officer may accept those statements with appropriate adjustments to approximate that income.

**Proposed MTC Model  
(minor changes from the original MTC model)**

(a) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group is the taxable income for the corporation after making appropriate adjustments under [state tax code provisions for adjustments to taxable income].

(b) (1) For any member not included in Section 3.C.ii.(a), the income to be included in the total income of the combined group is determined as follows:

(A) A profit and loss statement 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.

(B) The profit and loss statement must be adjusted to conform it to the accounting principles generally accepted in the United States for the preparation of such statements except as modified by this regulation.

(C) The profit and loss statement must be adjusted to conform it to the tax accounting standards required by the [state tax code]

(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, must be translated into the currency in which the parent company maintains its books and records.

(E) Income apportioned to this state must be expressed in United States dollars.

(2) In lieu of the procedures set forth in Section 3.C.ii.(b)(1), above, and subject to the determination of the Director that it reasonably approximates income as determined under [the State tax code], the combined group may determine the income for any member not included in Section 3.C.ii.(a) on the basis of the consolidated profit and loss statement which includes the member and which is prepared for filing with the Securities and Exchange Commission by related corporations. If the member is not required to file with the Securities and Exchange Commission, the Director may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor. If above statements do not reasonably approximate income as determined under [the State tax code] the Director may accept those statements with appropriate adjustments to approximate that income.

**West Virginia Code, W. Va. Code § 11-24-13d**

(1) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group shall be the taxable income for the corporation after making allowable adjustments under this article.

(2) For any member not included in subdivision (1) of this subsection, the income to be included in the total income of the combined group shall be determined as follows:

(A) A profit and loss statement 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.

(B) Adjustments shall be made to the profit and loss statement to conform it to the accounting principles generally accepted in the United States for the preparation of such statements except as modified by this regulation.

(C) Adjustments shall be made to the profit and loss statement to conform it to the tax accounting standards required by this article.

(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, shall be translated into the currency in which the parent company maintains its books and records.

(E) Income apportioned to this state shall be expressed in United States dollars.

(3) In lieu of the procedures set forth in subdivision (2) of this subsection, and subject to the determination of the Tax Commissioner that it reasonably approximates income as determined under this article, any member not included in subdivision (1) of this subsection may determine its income on the basis of the consolidated profit and loss statement which includes the member and which is prepared for filing with the Securities and Exchange Commission by related corporations. If the member is not required to file with the Securities and Exchange Commission, the Tax Commissioner may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor. If above statements do not reasonably approximate income as determined under this article, the Tax Commissioner may accept those statements with appropriate adjustments to approximate that income.

**Code of Massachusetts Regulations, 830 CMR 63.32B.2, Combined Reporting - Combined Group Subject to a Worldwide Election.**

The provisions below in green basically follow our model and those in yellow would appear to be useful inclusions in a simplified model.

... (3)(b)(i) ... (A) for any member incorporated in the United States, or treated as a U.S. corporation under the Code, the income to be included in the total income of the combined group shall be the taxable net income for the corporation as determined under M.G.L. c. 63, subject to any further adjustments as required by 830 CMR 63.32B.2, and

(B) for any member not incorporated in the United States and not treated as a U.S. corporation under the Code, the income to be included in the total income of the combined group shall be determined from a profit and loss statement that shall be prepared for each foreign branch or corporation in the currency in which its books of account are regularly maintained, adjusted to conform it to the accounting principles generally accepted in the United States for the preparation of such statements and further modified to take into account any book-tax adjustments necessary to reflect federal or Massachusetts tax law. The income in cases described in 830 CMR 63.32B.2(6)(c)2.b.(i)(B) shall, except as otherwise provided in 830 CMR 63.32B.2, include all income wherever derived, and is not limited to items of U.S. source income or effectively connected income within the meaning of the Code. The profit and loss statement of each member of the combined group referenced in 830 CMR 63.32B.2(6)(c)2.b.(i)(B), 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 and entity-by-entity basis. Unrealized foreign currency gains and losses shall not be taken into account. Income apportioned to this state shall be expressed in United States dollars.

(ii) ... any member not incorporated in the United States and not treated as a U.S. corporation under the Code, may, in lieu of the procedures set forth in 830 CMR 63.32B.2(6)(c)2.b.(i), and subject to the determination of the Commissioner that the income to be reported reasonably approximates income as determined under M.G.L. c. 63, determine its income on the basis of any other reasonable method consistently applied on a year-to-year and entity-by-entity basis.

(iii) Where the combined group has made, and is subject to, a valid worldwide election, the income to be included in the combined group's taxable income to be apportioned to the combined group members is limited to the income that derives from the combined group's unitary business.

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(a) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group is the taxable income for the corporation after making appropriate adjustments under [state tax code provisions for adjustments to taxable income].

(b) (1) For any member not included in Section 3.C.ii.(a), the income to be included in the total income of the combined group is determined as follows:

(A) A profit and loss statement 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.

(B) The profit and loss statement must be adjusted to conform it to the accounting principles generally accepted in the United States for the preparation of such statements except as modified by this regulation.

(C) The profit and loss statement must be adjusted to conform it to the tax accounting standards required by the [state tax code]

(D) Except as otherwise provided by regulation, the profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, must be translated into the currency in which the parent company maintains its books and records.

(E) Income apportioned to this state must be expressed in United States dollars.

(2) In lieu of the procedures set forth in Section 3.C.ii.(b)(1), above, and subject to the determination of the Director that it reasonably approximates income as determined under [the State tax code], the combined group may determine the income for any member not included in Section 3.C.ii.(a) on the basis of the consolidated profit and loss statement which includes the member and which is prepared for filing with the Securities and Exchange Commission by related corporations. If the member is not required to file with the Securities and Exchange Commission, the Director may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor. If above statements do not reasonably approximate income as determined under [the State tax code] the Director may accept those statements with appropriate adjustments to approximate that income.

**Idaho Statutes, Idaho Code § 63-3027, COMPUTING IDAHO  
TAXABLE INCOME OF MULTISTATE OR UNITARY CORPORATIONS**

The provisions below in green in yellow are an alternative approach to the issue using similar concepts but in a simplified way.

(2) The income of a corporation to be included in a combined report shall be determined as follows:

(i) For a corporation incorporated in the United States or included in a consolidated federal corporation income tax return, the income to be included in the combined report shall be the taxable income for the corporation after making appropriate adjustments under the provisions of section 63-3022, Idaho Code;

(ii) For a corporation incorporated outside the United States, but not included in subsection (t) (2) (i) of this section, the income to be included in the combined report shall be the net income before income taxes of such corporation stated on the profit and loss statements of such corporation which are included within the consolidated profit and loss statement prepared for the group of related corporations of which the corporation is a member, which statement is prepared for filing with the United States securities and exchange commission. If the group of related companies is not required to file such profit and loss statement with the United States securities and exchange commission, the profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor may be used to obtain net income before income taxes. In the alternative, and subject to reasonable substantiation and consistent application by the group of related companies, adjustments may be made to the profit and loss statements of the corporation incorporated outside the United States, if necessary, to conform such statements to tax accounting standards as required by the Internal Revenue Code as if such corporation were incorporated in the United States and required to file a federal income tax return, subject to appropriate adjustments under the provisions of section 63-3022, Idaho Code;

(iii) If the income computation for a group under sub paragraphs (i) and (ii) of this paragraph results in a loss, such loss shall be taken into account in other years, subject to the provisions of subsections (b) and (c) of section 63-3022, Idaho Code ;

**Vermont Administrative Rules, Vt. Code R. 10 060 040-7,  
Combined Net Income of the Group**

The provisions below in green in yellow are an alternative approach to the issue using similar concepts but in a simplified way.

(A) For any member incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group shall be the taxable income for the corporation after making appropriate adjustments under 32 V.S.A. § 5811 (18) .

(B)

(i) For any member not incorporated in the United States, or included in a consolidated federal corporate income tax return, the income to be included in the total income of the combined group shall be determined from a profit and loss statement prepared for each foreign branch or corporation in the currency in which its books of account are regularly maintained, adjustment to conform it to accounting principles generally accepted in the United States. The profit and loss statement of each member of the combined group, and the apportionment factors related thereto, whether United States or foreign, shall be translated into the currency in which the parent company maintains its books and records. Income apportioned to Vermont shall be expressed in United States dollars.

(ii) In lieu of the procedures set forth in (B)(i) above, and subject to the determination of the commissioner that it reasonably approximates income as determined under Title 32, any member not included in subsection (e)(2)(A) may determine its income on the basis of the consolidated profit and loss statement which includes the member and which is prepared for filing with the Security and Exchange Commission by related corporations. If the member is not required to file with the Security and Exchange Commission, the commissioner may allow the use of the consolidated profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor. If the above statements do not reasonably approximate income as determined under Title 32, the commissioner may accept those statements with appropriate adjustments to approximate that income.