Illinois Department of Revenue

Schedule 80/20 Instructions

General Information

Illinois law states that a unitary business group may not include any company that conducts 80 percent or more of its business outside of the United States and that insurance companies, financial organizations, transportation companies, and federally regulated exchanges may generally be included in a unitary business group only with companies in the same line of business. Taxpayers have reduced their Illinois income by forming one of these 80/20 companies or noncombination rule companies and claiming deductions for interest, intangible expenses, or insurance premiums paid to the affiliated company, which is placed where it cannot be taxed by Illinois on the income from these transactions.

Effective for tax years **ending on or after December 31, 2004**, you may not deduct some interest or "intangible expenses" from transactions with an 80/20 company. All interest and intangible expenses you deducted federally that are in excess of any taxable dividends you received from the 80/20 company must be added back unless an exception applies (see Specific Instructions).

You are allowed to subtract the amount of taxable interest and dividend income you received from the 80/20 company, up to the amount of federally deductible interest or intangible asset income you received from that 80/20 company that is added back, unless an exception applies (see Specific Instructions).

Effective for tax years **ending on or after December 31, 2008,** these same rules apply to noncombination rule companies. Also, you may not deduct premiums paid to an insurance company that would be unitary with you if not for the noncombination rule.

What is the purpose of Illinois Schedule 80/20?

Illinois Schedule 80/20 serves the following purposes:

- to figure the amount of deductions the domestic unitary member must add back to its income;
- to allow the taxpayer to figure the correct amount of allowable, valid deductions; and
- to allow any affiliated company with an Illinois filing requirement to take a deduction for the expenses added back on the Schedule 80/20 of the taxpayer who paid the expenses.

Note If you have more than three affiliated companies to report and additional space is needed, complete and attach additional Illinois Schedules 80/20. Report the totals in Column D of the last page.

Definitions

An **"80/20 company"** means any taxpayer who would be a member of a unitary business group with you, if not for the fact that 80 percent or more of its business activities are conducted outside the United States. For more information, see the discussion of the "80/20 rule" in "What is a unitary business group" in the instructions to the Schedule UB, Combined Apportionment for Unitary Business Group.

A **"noncombination rule company"** means any taxpayer who would be a member of a unitary business group with you, if not for the rule against combining insurance companies, financial organizations, transportation companies, and federally regulated exchanges with companies engaged in other businesses.

An **"affiliated company"** means any 80/20 company or noncombination rule company.

"Intangible expenses" means royalties and fees paid for intangible assets, losses incurred on sales or other dispositions of intangible assets to an 80/20 company, losses on factoring or discounting transactions with an 80/20 company, and deductible expenses incurred in connection with the acquisition, use, management, or sale or other disposition of an intangible asset.

"Intangible assets" include patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible property.

"Related party" means

- a brother, sister, spouse, ancestor or lineal descendant of an individual;
- an individual and a corporation more than 50 percent in value of the outstanding stock of which is owned directly or indirectly by or for such individual;
- two corporations that are united by common ownership, even if the corporations are not members of a unitary business group;
- a grantor and a fiduciary of any trust;
- a corporation and a partnership if the same persons own more than 50 percent in value of the outstanding stock of the corporation and more than 50 percent of the capital interest or the profits interest in the partnership;
- an S corporation and any of its shareholders;
- an S corporation and another S corporation, if the same persons own more than 50 percent in value of the outstanding stock of each corporation;
- an S corporation and a C corporation, if the same persons own more than 50 percent in value of the outstanding stock of each corporation; or
- a partner and its partnership and each of the other partners in that partnership.

Unitary business groups

If you are a member of a unitary business group, one Illinois Schedule 80/20 should be completed for the entire group. Complete Illinois Schedule 80/20 showing in the column for each affiliated company all of the disallowed interest and intangible expense deductions and premiums paid by all members of the unitary business group to the affiliated company or all of the interest, intangible asset income, and dividends received by every member of the unitary business group from the affiliated company. Members of the unitary business group who do not join in a combined return should attach a copy of the unitary Illinois Schedule 80/20 to their separate returns.

Affiliated companies that received interest or intangible asset income from more than one member of a unitary business group should report these amounts as if received from a single person.

Specific Instructions

Line 1 — Write the name of each 80/20 company to whom you paid interest or intangible expenses you are required to add back.

Line 2 — Write the FEIN (if applicable) for each affiliated company listed on Line 1. If the affiliated company is a foreign entity and does not have a FEIN, leave Line 2 for that column blank. If you leave this line blank, you may be contacted for further information.

Line 3a — Write all interest you paid to each affiliated company and deducted in computing base income in this tax year.

Line 3b — Write the amount of interest that is exempt from addback because

- the affiliated company is subject to an income tax on that interest in a foreign country or another state, other than a state that requires you and the affiliated company to file as members of a unitary group;
- the affiliated company paid interest during the tax year to an unrelated party, but only if your arrangement with the affiliated company did not have a principal purpose of reducing your Illinois income tax liability and the terms and interest rates of your arrangement with the affiliated company are the same as they would be with an unrelated party;
- your arrangements with the affiliated company did not have a principal purpose of reducing your federal or Illinois income tax liability and the terms and interest rates of your arrangement with the affiliated company are the same as they would be with an unrelated company;
- you can establish that the addback is unreasonable; or
- the Department has given you written permission to use an alternative apportionment formula and to deduct this interest. See the instructions for your income tax return for more information.

Line 3c — Follow the instructions on the form.

Line 4 — Write all dividends received from each affiliated company, plus any amounts included in gross income under Internal Revenue Code (IRC) Section 78 and Sections 951 through 964, but only to the extent these amounts are included in your base income for this tax year.

Line 5 — Follow the instructions on the form for Columns A, B, and C, and write the total in Column D.

Line 6a — Write all intangible expenses incurred in transactions with each affiliated company that you deducted in computing base income in this tax year.

Line 6b — Write the amount of intangible expenses from transactions with an affiliated company that is exempt from addback because

- **Foreign company or state -** the affiliated company is subject to an income tax on its income resulting from your expense in a foreign country or another state, other than a state that requires you and the affiliated company to file as a members of a unitary group;
- **No principal purpose -** the affiliated company incurred a similar, related expense during this tax year in a transaction with an unrelated party, but only if your arrangement with the affiliated company did not have a principal purpose of reducing your Illinois income tax liability and the terms and rates of your arrangement with the affiliated company are the same as they would have been with an unrelated party;
- **Addback unreasonable -** you can establish that the addback is unreasonable; or
- **Alternative apportionment -** the Department has given you written permission to use an alternative apportionment formula and to deduct this expense. See the instructions for your income tax return for more information.

If you enter an amount on Line 6b, you must check at least one box on Line 6c.

Line 6c — If you wrote an amount on Line 6b, check the boxes that identify the reasons the amount written on Line 6b is exempt from addback. You may check multiple boxes.

Line 6d — subtract Line 6b from Line 6a.

Line 7 — Write any excess amount of dividends received from each affiliated company on Line 4, over the interest expense addition on Line 3c.

Line 8 — Follow the instructions on the form for Columns A, B, and C, and write the total in Column D.

Line 9 — Write all insurance premiums you paid to an affiliated company and deducted in computing base income this tax year.

Line 10 — Write any excess amount of dividends received from each affiliated company on Line 7 over the intangible expense addition on Line 6d.

Line 11 — Follow the instructions on the form for Columns A, B, and C, and write the total in Column D.

Line 12 — If you are an insurance company and one of your policyholders is an affiliate who was required to add back its federal income tax deductions for premiums paid to you, that affiliate may elect to subtract the amount of any loss insured by you that would have been deductible on its federal return, if not for the insurance. If an affiliate elects to make this subtraction, you must add back the amount of the subtraction claimed on Line 18 of its Schedule 80/20.

Line 13 — Add the total amounts in Column D, Lines 5, 8, 11, and 12. Write the total here and on

- Form IL-1120, Line 6,
- Form IL-1120-ST, Line 18,
- Form IL-1065, Line 18, or
- Form IL-1041, Line 8.

Note The sum of the amounts you report on Form IL-1041, Line 8, Columns A and B should match the total amount reported on Illinois Schedule 80/20, Step 2, Line 13.

Complete Lines 14 through 19 only if you figured an addition modification on Line 13.

Line 14 — If you received interest from an affiliated company listed on Line 1, write the amount included in your base income for each affiliated company.

Line 15 — Follow the instructions on the form.

Line 16 — If you received income from transactions involving intangible assets with an affiliated company listed on Line 1, write the amount included in your base income for each affiliated company.

Line 17 — Follow the instructions on the form.

Line 18 — If you were required to add back a federal income tax deduction for premiums paid to an affiliated insurance company, you may elect to subtract the amount of any loss insured by that affiliated insurance company that would have been deductible on your federal return, if not for the insurance. If you elect to make this subtraction, the affiliated insurance company must add back the amount of the subtraction you claim.

Line 19 — Write the name and FEIN of the insurance company for which you claimed a subtraction on Line 18. If the company is a foreign entity and does not have a FEIN, leave the FEIN line blank. If you leave this line blank, you may be contacted for further information.

Lines 20 through 29 should only be completed by an affiliated company that is allowed a subtraction modification because the U.S. company with which it is affiliated must add back any portion of interest or intangible expenses it paid to the affiliated company. All taxpayers may complete Line 30.

Line 20 — Write the name and FEIN of the U.S. company or the designated agent of the unitary business group that was disallowed a deduction for the interest or intangible expenses paid to you.

Line 21 — Write the total amount of interest received from the U.S. company that you included in your base income for this tax year, net of any related expenses.

Line 22 — Write the amount from Line 5 of the Illinois Schedule 80/20 filed by the U.S. company for this tax year with respect to interest paid to you. If negative, write “0.”

Line 23 — Follow the instructions on the form.

Line 24 — Write the total amount of intangible asset income received from the U.S. company that you included in your base income for this tax year, net of any related expenses.

Line 25 — Write the amount from Line 8 of the Illinois Schedule 80/20 filed by the U.S. company for this tax year with respect to intangible expenses paid to you.

Line 26 — Follow the instructions on the form.

Line 27 — Write the total amount of insurance premiums received from the U.S. company that you included in your base income for this tax year, net of any related expenses.

Line 28 — Write the amount from Line 11 of the Illinois Schedule 80/20 filed by the U.S. company for this tax year with respect to insurance premiums paid to you.

Line 29 — Follow the instructions on the form.

All taxpayers complete Line 30.

Line 30 — Add the total amounts in Column D, Lines 15, 17, 18, 23, 26, and 29. Write the total here and on

- Form IL-1120, Line 19,
- Form IL-1120-ST, Line 31,
- Form IL-1065, Line 31, or
- Form IL-1041, Line 21.

Note The sum of the amounts you report on Form IL-1041, Line 21, columns A and B should match the total amount reported on Illinois Schedule 80/20, Step 3, Line 30.