7900 INTRASTATE APPORTIONMENT

The combined report is a means by which the income of a unitary business is divided among the taxing jurisdictions in which the trade or business is conducted. A combined report is not a "return" but merely the name given to the calculations by which multi-entity unitary businesses apportion income on a geographic basis. There is no "combined report" form. A "combined report" refers to the *schedules* that are attached to the tax return and that are required to be filed by some taxpayer members of the combined reporting group to report their income from sources within the state under the combined reporting method. (CCR §25106.5(b)(1).)

In a combined report, the entire amount of unitary business income of all corporations in the unitary group (including unitary members with no property, payroll, or sales within California) is first aggregated and then apportioned to California by formula apportionment. Corporations conducting a unitary business partly within and partly without California must use a combined reporting approach to report income subject to tax in California.

Generally, each California taxpayer included in the combined report must file its own return (Form 100), to which it should attach a combined report. As a convenience to taxpayers, the Franchise Tax Board has allowed unitary taxpayers to elect to file a single "group return," with a single combined report attached, in the name of a designated key corporation. A "group return" amounts to the key corporation's California Form 100 with all of the eligible electing taxpayer members of a combined reporting group being included on the key corporation's Schedule R-7 of Schedule R, also attached to the key corporation's California Form 100. (CCR §25106.5(b)(13).) This key corporation's filing is treated as satisfying the individual filing responsibility of each of the taxpayer members. (CCR §25106.5-11(a).)

Once the group's business income is determined, it must be intrastated; i.e., calculated for each California taxpayer individually. The process of apportioning the combined business income subject to taxation to the taxpayer members of the group is referred to as intrastate apportionment. An explanation of intrastate apportionment computations is found in FTB Publication 1061. Overall, however, each taxpayer member determines its intrastate portion of the group's California business income by applying to the group's business income a ratio consisting of that taxpayer's California factors over the group's factors. (See FTB Publication 1061's example.) PASS audit schedules are preset to perform these calculations.

Once the business income is intrastated, each taxpayer's net income is then determined by adjusting that taxpayer's intrastate business income by any California nonbusiness income or loss attributable to that specific taxpayer. The minimum franchise tax, alternative minimum tax, net operating losses, and most tax credits also are applied on an individual entity basis. A taxpayer's non-business income or losses may only be offset against the California business income apportioned to that taxpayer. When separate Notices of Proposed Assessment are issued, each Notice must reflect only the tax deficiency for that particular taxpayer.

You are generally required to prepare intrastate apportionment schedules showing the separate tax liabilities for all taxpayers in the combined report. Exceptions are only permitted in those rare occasions where the data necessary to compute intrastate apportionment is no longer available. You should explain the reasons for not preparing intrastate apportionment computations in the audit narrative.

If the information necessary to intrastate apportion the self-assessed tax is not disclosed in the tax return itself, then you should attempt to reconstruct the intrastate apportionment using the best available information supplied by the taxpayer or obtained during the audit. If the data needed to intrastate apportion the previously assessed tax cannot otherwise be developed, then you should credit the previously assessed tax in a manner reasonable under the circumstances. These procedures are explained in FTB Legal Ruling 95-2. An acceptable approach was approved by the SBE in the *Appeal of First Pacific Bancorp,* 95-SBE-013, November 9, 1995.

Unlike the Federal consolidated return, which imposes a joint and several liability, each taxpayer member in the combined report has an obligation to file its own return and pay its own tax liability on its income from California sources. Therefore, when separate Notices of Proposed Assessment are issued, each Notice must reflect only the tax deficiency for that particular taxpayer.

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