

# Combined Unitary Legislation



## Corporation Business Tax

**Special Notice 2016(1)**

# General Information

Pursuant to legislation enacted in 2015, groups of companies with common ownership that are engaged in a unitary business, where at least one member of the group is subject to the Corporation Business Tax, are required to calculate their tax liability on a combined unitary basis (this legislation is referred to in this Special Notice as the “Unitary Legislation”). The Unitary Legislation is effective for income years beginning on or after January 1, 2016.

For income years beginning on or after January 1, 2016, the Unitary Legislation requires companies to report the income, capital, and apportionment of the entire business enterprise on a combined unitary basis when the business is conducted by multiple, commonly owned companies. Under prior law, a company generally was required to file tax returns on a separate basis and report only its own income, capital, and apportionment even if said company was a component part of a larger business enterprise.

This Special Notice describes the mechanics of identifying the groups of companies that must file a combined unitary tax return and the calculation of the group’s Corporation Business Tax liability.

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# I. Definitions

The Unitary Legislation provides the following definitions:

**Combined group** means the group of all companies that have common ownership and are engaged in a unitary business, where at least one company is subject to the Corporation Business Tax.

**Common ownership**<sup>1</sup> means that more than fifty per cent of the voting control of each member of a combined group is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, whether or not the owner or owners are members of the combined group. Whether voting control is indirectly owned shall be determined in accordance with Internal Revenue Code (I.R.C.) § 318.

**Unitary business** means a single economic enterprise that is made up either of separate parts of a single business entity or of a group of business entities under common ownership, which enterprise is sufficiently interdependent, integrated or interrelated through its activities so as to provide mutual benefit and produce a significant sharing or exchange of value among such entities, or a significant flow of value among the separate parts. Any business conducted by a pass-through entity shall be treated as conducted by its members, whether directly held or indirectly held through a series of pass-through entities, to the extent of the member's distributive share of the pass-through entity's income, regardless of the percentage of the member's ownership interest or its distributive or any other share of pass-through entity income. Any business conducted directly or indirectly by one corporation is unitary with that portion of a business conducted by another corporation through its direct or indirect interest in a pass-through entity if there is a mutual benefit and a significant sharing of exchange or flow of value between the two parts of the business and the two corporations are members of the same group of business entities under common ownership.

**Taxable member** means a combined group member that is subject to the Corporation Business Tax.

**Nontaxable member** means a combined group member that is not a taxable member, but does not include a company that is exempt from the Corporation Business Tax under Conn. Gen. Stat. § 12-214(a)(2).

**Pass-through entity** means an entity treated as a partnership or S corporation for federal income tax purposes.

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<sup>1</sup> The term *commonly owned* is also used in the Unitary Legislation. For purposes of this Special Notice and the Unitary Legislation, *common ownership* and *commonly owned* are synonymous terms.

## II. Determination of Combined Group

For income years beginning on or after January 1, 2016, combined groups are required to calculate their Corporation Business Tax liability on a combined unitary basis. The following briefly describes the steps required to identify those companies included in the combined group:

**Step 1:** Identify all commonly owned companies engaged in a unitary business with a company subject to the Corporation Business Tax. For a discussion of unitary businesses, see *Paragraph A., What Constitutes a Unitary Business?*

**Step 2:** The group of companies identified in *Step 1* should be modified to reflect the applicable group filing basis: Water's-Edge, Worldwide, or Affiliated Group. The group filing basis dictates which companies are included in or excluded from the combined group. The following describes the general principles of each filing basis:

- **Water's-Edge (default rule):** Include only those commonly owned companies engaged in a unitary business identified in *Step 1* that are incorporated in the United States (with certain modifications discussed below). Unless a worldwide or affiliate group election is made, the water's-edge filing basis must be utilized.
- **Worldwide (election):** Include all commonly owned companies engaged in a unitary business identified in *Step 1*, wherever incorporated.
- **Affiliated Group (election):** Include those companies that file as part of a federal consolidated return with any taxable member, plus any other domestic (United States) company commonly owned, directly or indirectly, by any member of such affiliated group. If an affiliated group election is made, companies are included or excluded at this step without regard to whether they are engaged in a unitary business.

A more detailed discussion of each group filing basis is provided in *Paragraph C., Group Filing Bases.*

**Step 3:** Exclude from the modified group of companies identified in *Step 2* those companies that are specifically exempt from the Corporation Business Tax under Conn. Gen. Stat. § 12-214(a)(2).

Passive investment companies and municipal utilities should not be included in the combined group as such entities are not included in the definition of *company* in Conn. Gen. Stat. § 12-213(a)(1).

**Step 4:** The group of companies remaining after *Step 3* is the combined group. Prior to calculating the combined group's tax on a combined unitary basis, the companies must be divided between taxable members and nontaxable members. Members of the combined group that are individually subject to the Corporation Business Tax are the taxable members. All other members are the nontaxable members.

## **A. What Constitutes a Unitary Business?**

A unitary business is characterized by significant flows of value evidenced by factors such as those described in Mobil Oil Corp. v. Vermont, 445 U.S. 425 (1980): functional integration, centralization of management, and economies of scale. These factors provide evidence of whether the business activities operate as an integrated whole or exhibit substantial mutual interdependence. Facts suggesting the presence of the factors mentioned above should be analyzed in combination for their cumulative effect and not in isolation.

Without limiting the scope of what constitutes a unitary business, the presence of the following circumstances likely indicate the existence of a unitary business when conducted by two or more commonly owned companies:

- Companies engaged in the same line or similar lines of business.
- Companies engaged in different steps of a vertically structured business.
- Companies controlled by strong centralized management.
- Economies of scale that allow for mutual benefit to companies.
- One company exercises significant control over another company or companies.
- Companies engaged in intercompany business transactions, particularly relating to products, services, intellectual property, or financing that are significant to the businesses' operations.

## **B. Specific Unitary Business Issues**

### **Newly Acquired and Newly Formed Companies**

When a change in the direct or indirect ownership of a company causes it to be commonly owned with other companies, it shall be presumed that such company is not engaged in a unitary business with such other commonly owned companies during the income year in which ownership change occurred. When a company forms a new company, it shall be presumed that said companies are engaged in a unitary business from the date of formation. These presumptions may be rebutted by the taxpayer or Commissioner of Revenue Services ("Commissioner") based upon facts and circumstances.

### **Portion of a Company's Operations Engaged in a Unitary Business**

If only a portion of a company's operations are part of a unitary business, only the income, capital, and apportionment factors related to said portion should be included in the calculation of the combined group's tax. The remaining portion of a member's business operations may be subject to tax separately from the combined group, if such member individually conducts business in Connecticut, or with another combined group, if it is engaged in a unitary business with a different combined group that conducts business in Connecticut.

Commonly owned companies may be engaged in more than one unitary business. In these situations, tax should be calculated separately on each such unitary business.

### **Passive Holding Companies**

Passive holding companies that directly or indirectly control one or more operating companies engaged in a unitary business shall themselves be deemed to be engaged in a unitary business with such companies. Passive holding companies may be engaged in more than one unitary business.

The income, capital, and apportionment factors of a passive holding company, or any other company, that is a member of more than one combined group shall be allocated on a consistent basis in accordance with combined unitary reporting principles. If a passive holding company is engaged in a unitary business with members of a combined group and with entities exempt from or otherwise not subject to the Corporation Business Tax, its income, capital, and apportionment must be allocated between the combined group and such entities.

## C. Group Filing Bases

As described above, a group's filing basis affects which members are included in or excluded from the combined group. The three filing bases are:

- Water's-Edge;
- Worldwide; **and**
- Affiliated Group.

The worldwide basis and affiliated group basis are elective options. An election to determine the combined group members on one of these bases must be made on an original return filed by the due date or extended due date of such return. Only one such election may be made and it is binding for the income year for which it was made and the next ten income years. Members that join the group in a year after an election is made are deemed to have consented and are subject to said election. The combined unitary tax return forms will provide combined groups with the ability to make either election.

If no such election is made, the composition of the combined group is determined on a water's-edge filing basis.

### Water's-Edge (default rule)

Under the water's-edge filing basis, the combined group includes those commonly owned companies engaged in a unitary business that:

- Are incorporated in the United States<sup>2</sup> or formed under the laws of the United States, excluding companies with 80% or more of their property and 80% or more of their payroll located outside of the United States during the income year;
- Are incorporated wherever, if 20% or more of their property and 20% or more of their payroll are located in the United States during the income year; **or**
- Are incorporated in a tax haven, unless it is proven to the satisfaction of the Commissioner that such companies are incorporated in a tax haven for a legitimate business purpose. See *Section X., Tax Havens*, on Page 15.

### Worldwide Election

Under the worldwide election, the combined group includes all commonly owned companies engaged in a unitary business regardless of where they are incorporated.

### Affiliated Group Election

Under the affiliated group election, the combined group includes:

- Companies included in a federal consolidated return with a taxable member (regardless of whether said companies are engaged in a unitary business);
- Domestic (United States) companies that have more than 50% of their voting stock owned, directly or indirectly, by any member or members of a federal consolidated return that includes a taxable member (regardless of whether said companies are engaged in a unitary business); **and**
- Companies incorporated in a tax haven that share common ownership with a taxable member and are engaged in a unitary business with such member, unless it is proven to the satisfaction of the Commissioner that such companies are incorporated in a tax haven for a legitimate business purpose.

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<sup>2</sup> For purposes of this Special Notice, United States includes its states, territories, and possessions.

## **D. Exclusion of Exempt Companies**

Companies specifically exempt from the Corporation Business Tax by Conn. Gen. Stat. § 12-214(a)(2) are excluded from the combined group. Such exempt companies include, but are not limited to:

- Insurance companies;
- Companies exempt from federal corporation net income tax;
- Companies subject to gross earnings taxes under Chapter 210 of the Connecticut General Statutes;
- Companies all of whose properties in this state are operated by companies subject to gross earnings taxes under Chapter 210 of the Connecticut General Statutes;
- Cooperative housing corporations; **and**
- Certain political organizations or associations.

## **E. Taxable v. Nontaxable Members**

A combined group may be comprised of companies individually subject to the Corporation Business Tax and companies that are not individually subject to said tax. Members of the combined group that are individually subject to the Corporation Business Tax are the taxable members. All other members are the nontaxable members.

### **Companies Protected by Public Law 86-272, 15 U.S.C. 381-384, (“P.L. 86-272”)**

If the only member of a combined group that is subject to the Corporation Business Tax is immune from net income taxation in Connecticut pursuant to P.L. 86-272, the group should calculate its tax only on the capital base. If there are other, non-immune combined group members subject to the Corporation Business Tax, the group should calculate its tax on both the net income and capital bases, but should treat the immune member as a nontaxable member for net income base purposes and as a taxable member for capital base purposes. All other non-immune members subject to the Corporation Business Tax should be treated as taxable members for both bases.



### III. Determination of a Combined Group's Net Income

A combined group's net income is the aggregate net income or loss of each taxable member and nontaxable member, derived from a unitary business,<sup>3</sup> subject to the following:

- Each member calculates its net income derived from a unitary business as if it were filing a Corporation Business Tax return on a standalone basis, subject to the modifications described herein.
- Dividends paid from one member to another are eliminated from the income of the recipient.
- The principles set forth in the federal consolidated return regulations promulgated under I.R.C. § 1502 shall apply to the extent consistent with the Connecticut combined group membership and combined unitary reporting principles.
  - Income deferred in accordance with such principles is restored to the seller's income if the object of the transaction is resold to an entity not in the combined group or resold to or converted by a combined group member for use outside of the unitary business. The income is also restored to the seller's income if the buyer and seller are no longer part of the same combined group. The restored income is included in the seller's net income as if it were earned immediately prior to the event that caused its restoration.
- The charitable contribution limitation is calculated on a combined group's net income, prior to the charitable contribution deduction.
  - To the extent that a member's charitable contribution deduction is limited, it may be carried forward by the member and utilized in a future year.
  - To the extent that the group's charitable contribution deduction is limited, each member shall deduct an amount equal to its pro rata share of the group's allowable deduction. See *Example A*, on Page 20.
  - Charitable contribution carryforwards are treated as if they were charitable contributions made in the subsequent year. These carryforwards may be used by the member in a combined unitary tax return or, if it no longer files in a combined unitary tax return in the future year, a separate return.
- Gains and losses from the sale or exchange of capital assets, property described in I.R.C. § 1231(a)(3), and property subject to an involuntary conversion are removed from the separate member's net income and aggregated at the group level. The net gain or loss is apportioned to the taxable members in accordance with the net income apportionment provisions. Apportioned net losses are carried forward by each taxable member separately. See *Example B*, on Page 21.
- No deductions are allowed for expenses that are attributable to income of any member of the combined group, which income is prohibited from Connecticut taxation under the United States Constitution or other federal law.

#### Pass-Through Entities

The businesses of pass-through entities are considered to be conducted by their direct or indirect members, but only to the extent of each member's distributive share of the pass-through entity income. Accordingly, a member's pro-rata share of the pass-through entity's income, capital, and apportionment factors derived from the unitary business must be included in the calculation of the combined group's tax.

#### Limited Partners

Conn. Gen. Stat. § 12-218(g)(1) sets forth specific apportionment rules for companies whose only business activities in Connecticut relate to the ownership of limited partnership interests in limited partnerships (other than investment partnerships), which conduct business in Connecticut. In general, such companies are subject to tax solely on their distributive shares of income from the limited partnerships.

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<sup>3</sup> The references in this section to *derived from a unitary business* do not apply to a combined group that has made an affiliated group election. The income of each member of a group that has made an affiliated group election is included in the calculation of the combined group's net income regardless of whether such income is derived from a unitary business.



For combined unitary purposes, however, if such a corporate limited partner is engaged in a unitary business with a company that is subject to the Corporation Business Tax, the corporate limited partner is treated as a taxable member and must apportion the combined group's net income in accordance with Conn. Gen. Stat. § 12-218(g)(3). Such corporate limited partner is not subject to the provision that allows it to be taxed solely on its distributive share of the limited partnership's income.

If the corporate limited partner is not engaged in a unitary business with the limited partnership or with a company subject to the Corporation Business Tax, said corporate limited partner is subject to tax solely on its distributive share of the limited partnership's income in accordance with (and subject to the election provided by) Conn. Gen. Stat. § 12-218(g)(1).

### **Investment Partnerships**

A combined group's net income generally does not include a member's distributive share of income from an investment partnership in which the member is a limited partner. If such limited partner member conducts business in Connecticut (exclusive of its investment partnership interest),<sup>4</sup> it must separately calculate tax on its distributive share of the investment partnership's income. Such income should be apportioned in accordance with Conn. Gen. Stat. § 12-218(g)(2). If such limited partner member does not conduct business in Connecticut (exclusive of its investment partnership interest), it is not subject to tax on its distributive share of the investment partnership's income.

A combined group's net income, however, may include a member's distributive share of income from an investment partnership in which a member is a limited partner, if said member and the general partner of the investment partnership are commonly owned. Such income is included if it is derived from the combined group's unitary business as determined under Conn. Gen. Stat. § 12-213(a)(32).<sup>5</sup>

### **Captive Real Estate Investment Trusts (REITs)**

In the calculation of the combined group's net income, dividends received by one member from a captive REIT combined group member are eliminated and the captive REIT member is not entitled to the dividends paid deduction.

### **Foreign (Non-United States) Companies**

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 company in the currency in which the books of account of the branch or company 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 the Corporation Business Tax, income may be determined on any reasonable basis consistently applied on a year-to-year or entity-by-entity basis.

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<sup>4</sup> A company does not conduct business in Connecticut solely by virtue of being a limited partner in an investment partnership. See Conn. Gen. Stat. § 12-214(a)(3)(C).

<sup>5</sup> See footnote 4.

## **IV. Apportionment of a Combined Group's Net Income**

If any member of the combined group carries on or does business outside of Connecticut or if any member is a financial services company, as defined in Conn. Gen. Stat. § 12-218b, the group is entitled to apportion its net income. If the group is entitled to apportion, each taxable member separately calculates its apportionment fraction in order to determine its portion of the combined group's net income.

Prior to calculating each taxable member's net income apportionment fraction, the nontaxable members' Connecticut receipts are assigned to taxable members. These receipts are assigned to taxable members on a pro-rata basis in accordance with the ratio of each taxable member's Connecticut receipts over the total of all taxable members' Connecticut receipts. See *Example C*, on Page 22.

Once the nontaxable members' Connecticut receipts are assigned to taxable members, each taxable member must calculate its apportionment fraction. In general, each taxable member must utilize the single sales factor to apportion the combined group's net income. To calculate its net income apportionment fraction, each taxable member includes its individual Connecticut receipts (including receipts assigned to it from nontaxable members) in the numerator and the combined group's worldwide receipts in the denominator.

For net income apportionment purposes, receipts from transactions between members of the combined group are eliminated. In addition, receipts related to items of income not included in a combined group's unitary business or prohibited from Connecticut taxation under the United States Constitution or other federal law are excluded from the net income apportionment calculation.

Each taxable member's apportionment fraction is multiplied, individually, by the combined group's net income. See *Example D*, on Page 22.

### **Pass-Through Entities**

For net income apportionment purposes, transactions between a pass-through entity and a combined group member should be eliminated to the extent that the pass-through entity's income is included in the combined group's net income. See *Example E*, on Page 23.

### **Alternative Apportionment**

If the apportionment methodologies applied to the taxable members of a combined group unfairly attribute an undue proportion of the group's net income or capital base to Connecticut, the combined group may petition the Commissioner for an alternate method of apportionment under Conn. Gen. Stat. § 12-221a.

## V. Application of Net Operating Losses

After apportionment, net operating losses (“NOLs”) are deducted from each taxable member’s portion of the combined group’s net income in accordance with the following:

- NOLs incurred by a taxable member in a year when it filed a separate Corporation Business Tax return may be used only to reduce its apportioned amount of the combined group’s net income.
- NOLs incurred by a group that filed a **Form CT-1120CR**, *Combined Corporation Business Tax Return*, or a **Form CT-1120U**, *Unitary Corporation Business Tax Return*, in an income year prior to 2016 may be used to reduce the apportioned amount of the combined group’s net income of any taxable member that was included in the Form CT-1120CR or Form 1120U in the loss year. Only the combined NOLs from a Form CT-1120CR, and not separate company NOLs from such a return that were available for preference tax purposes under Conn. Gen. Stat. § 12-223f, may be utilized.
- NOLs incurred by a taxable member in a year in which it filed a combined unitary tax return as required in the Unitary Legislation may be used by the taxable member and/or may be shared with other members that were included in the combined group in the year of the loss (regardless of whether the member was a taxable member or nontaxable member in the loss year).

Taxable members are subject to the NOL limitation provided for in Conn. Gen. Stat. § 12-217(a)(4), which limits NOL deductions to 50% of net income.

See *Example F*, on Page 23.

**Division of unused NOLs between members of Form CT-1120CR or Form CT-1120U that do not file together in a combined unitary tax return:** Unused NOLs from a Form CT-1120CR should be divided between the members of such group in accordance with Conn. Agencies Regs. § 12-223a-2. Unused NOLs from a Form CT-1120U should be divided between the members based upon each such member’s relative contribution to the elective unitary group’s apportionment fraction in the year of the loss. If all members of a group that filed a Form CT-1120CR or Form CT-1120U are included in a combined group that files a combined unitary tax return, there is no need to calculate the division of NOLs.

## VI. Application of Tax Against Apportioned Net Income

Once each taxable member determines its apportioned net income after application of any NOL, tax is calculated in accordance with Conn. Gen. Stat. § 12-214. For income year 2016, the tax rate on net income is 7.5%, prior to the surtax.

## VII. Capital Base Tax

Combined groups are subject to tax on the greater of their net income base and capital base taxes. To calculate the combined group's capital base, the members of the combined group (including both taxable and nontaxable members, but excluding any member that qualifies as a financial service company under Conn. Gen. Stat. § 12-218b) aggregate each of their separate capital bases. In this calculation, intercorporate stock holdings in the combined group are eliminated and no deduction is allowed for such holdings. Moreover, assets and liabilities attributable to transactions between members of the combined group are eliminated.

If any member of the combined group carries on or does business outside of Connecticut, the group is entitled to apportion its capital base. Similar to the concept used to apportion the combined group's net income, taxable members separately apportion the combined group's capital base. Each taxable member's capital base apportionment fraction includes its assets sourced to Connecticut under Conn. Gen. Stat. § 12-219a in the numerator and the worldwide assets of the entire combined group in the denominator.<sup>6</sup>

The tax rate provided in Conn. Gen. Stat. § 12-219 is applied against each taxable member's apportioned capital base, other than financial service companies. For income year 2016, the tax rate on the capital base is 0.31%, prior to the surtax. Taxable members that are financial service companies are subject to a capital base tax of \$250. See *Example G*, on Page 25.

In no event shall a taxable member's capital base tax be less than \$250 and in no event shall the aggregate capital base tax of the group exceed \$1 million, prior to the surtax. To ensure that the cap is not exceeded, if the aggregate amount of each taxable member's capital base tax exceeds \$1 million, each taxable member should prorate its capital base tax such that the group's aggregate capital base tax equals \$1 million. See *Example H*, on Page 25.

Every taxable member of a combined group is subject to tax on the same base (i.e., net income or capital). The group shall determine which of the two bases results in the greater aggregate tax due and each taxable member shall be subject to tax on said base, with the exception that no taxable member's tax may be less than \$250. Any applicable surtax is then applied. See *Example I*, on Page 26.

### Part Year Members

Members that are part of a combined group for a portion of the group's income year should include their beginning or end of year balances in the group's capital base computation to the extent they were part of the combined group at the beginning or end of the year. For capital base apportionment purposes, the average monthly value of a part year member's assets should be prorated to reflect the percentage of the group's income year it was included in the group. For example, if a member was part of a combined group for four out of the group's twelve months in an income year and said part year member had assets with an average monthly value of \$120 during the four months, the apportionment calculation should include \$40 [ $\$120 \times (4/12)$ ] of the member's assets.

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<sup>6</sup> Financial service companies are excluded from this calculation.

## VIII. Application of Credits

After each taxable member's tax liability has been determined, credits, if available, may be used to offset the tax due.

Each taxable member is individually subject to the limitations imposed by Conn. Gen. Stat. § 12-217zz, which generally provides that credits may offset no more than 50.01% of each taxable member's tax.<sup>7</sup>

Credits may be deducted from each taxable member's portion of the combined group's tax as follows:

- Credits earned in the current year by a taxable member of the combined group may be utilized by any taxable member in the group.
- Unused credits earned by a combined group member in a prior year in which a combined unitary tax return was filed may be utilized by the member that earned the credit or by any member that was included in the combined group in the year the tax credit was earned (regardless of whether or not the member was a taxable member or nontaxable member in such prior year).
- Unused credits earned by a taxable member in a prior year in which the taxable member filed a separate Corporation Business Tax return may be utilized only by the member that earned the credit.
- Unused credits earned by a combined group member in a year that it was included in a group that filed a **Form CT-1120CR**, *Combined Corporation Business Tax Return*, or a **Form CT-1120U**, *Unitary Corporation Business Tax Return*, may be used by the member that earned the credit or any other combined group member that was included in the Form CT-1120CR or CT-1120U in the year the credit was earned.

The credit ordering rules of Conn. Gen. Stat. § 12-217aa apply. Any credits available to a taxable member, including credits it earned and credits earned by other members that it is allowed to utilize, must be utilized in accordance with such ordering rules. See *Example J*, on Page 26.

Credits may not reduce each taxable member's tax to less than \$250.

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<sup>7</sup> Certain credits may be utilized in excess of the 50.01% limitation. See Conn. Gen. Stat. § 12-217zz.

## IX. Net Deferred Tax Liability Deduction

As a result of the Unitary Legislation, certain taxpayers may need to adjust deferred tax assets (“DTAs”) and deferred tax liabilities (“DTLs”) reported on their financial statements. Combined groups that include publicly traded companies<sup>8</sup> are eligible for a deduction if their deferred tax positions are negatively impacted by certain provisions of the Unitary Legislation (“Net DTL Deduction”). As such, a combined group may claim the Net DTL Deduction if Sections 139 and 140 of P.A. 15-244 and the amendments thereto that were passed in the 2015 June and December Special Sessions (“Applicable Unitary Provisions”) result in an increase to its net DTL, a decrease to its net DTA or causes its net DTA to become a net DTL. The Net DTL Deduction is equal to the amount necessary to offset the balance sheet impact of such changes and may be taken in seven equal installments over a seven year period beginning with income year 2018.

To calculate the Net DTL Deduction, the combined group must:

**Step 1:** Determine the total DTAs and DTLs of all of its members as of the close of business on December 31, 2015, excluding the impact associated with the Applicable Unitary Provisions. As a result, such DTAs and DTLs will reflect all legislation enacted during the 2015 Connecticut legislative sessions other than the Applicable Unitary Provisions. If the resulting DTAs are greater than DTLs, the group has a net DTA. If the resulting DTLs are greater than DTAs, the group has a net DTL. The group must determine the amount of the resulting net DTA or net DTL in this step.

**Step 2:** The combined group must determine its total DTAs and DTLs as of December 31, 2015 when all legislation enacted during the 2015 Connecticut legislative sessions, including the Applicable Unitary Provisions, is considered. Again, if the resulting DTAs are greater than DTLs, the group has a net DTA. If the resulting DTLs are greater than DTAs, the group has a net DTL. The group must determine the amount of the resulting net DTA or net DTL in this step.

**Step 3:** The group must compare the amounts of its net DTA and/or net DTL from *Step 1* and *Step 2*. If, from *Step 1* to *Step 2*, there is an increase to the net DTL, a decrease to the net DTA or a change from a net DTA to a net DTL, the combined group is entitled to the Net DTL Deduction equal to the amount necessary to offset the balance sheet impact of such changes (“Unitary Deferred Tax Impact”).<sup>9</sup> The Unitary Deferred Tax Impact equals:

- If there is a net DTL in both *Step 1* and *Step 2*, net DTL in *Step 2* minus net DTL in *Step 1*;
- If there is a net DTA in both *Step 1* and *Step 2*, net DTA in *Step 1* minus net DTA in *Step 2*; or
- If there is a net DTA in *Step 1* and a net DTL in *Step 2*, net DTA in *Step 1* plus net DTL in *Step 2*.

To convert the Unitary Deferred Tax Impact to the annual Net DTL Deduction amount, the following steps should be taken. First, such Unitary Deferred Tax Impact should be divided by 7.5%, the Corporation Business Tax rate. This resulting amount should be further divided by the Connecticut unitary net income apportionment fraction that was used by the combined group in the calculation of its DTAs and DTLs described above. Except as otherwise specifically provided in statute, combined groups should use the single sales factor to calculate their apportionment fractions. The result of this equation represents the total Net DTL Deduction available over the seven year period beginning in income year 2018. Divide this amount by seven to arrive at the annual Net DTL Deduction amount. See *Example K*, on Page 29.

On or before July 1, 2017, a combined group must file with the Connecticut Department of Revenue Services (DRS) a statement and supporting calculations that specify the amount of the Net DTL Deduction the group claims. DRS will issue forms and instructions on how to file such statement. Failure to file this statement by July 1, 2017 results in a loss of the deduction.

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<sup>8</sup> This includes combined groups that have members that are publicly traded companies or affiliated corporations participating in the filing of a publicly traded company’s financial statements prepared in accordance with generally accepted accounting principles. Generally accepted accounting principles include, but are not limited to, U.S. Generally Accepted Accounting Principles (US GAAP) and International Financial Reporting Standards (IFRS).

<sup>9</sup> When calculating the Net DTL Deduction, taxpayers should account for any federal tax effect so that the balance sheet impact associated with the Applicable Unitary Provisions is fully offset.

## X. Tax Havens

For purposes of calculating the tax on a combined unitary basis, a combined group that files on a water's-edge basis or affiliated group basis must include those commonly owned companies that are engaged in a unitary business and are incorporated in a tax haven. Such a company may be excluded from the combined group if it can be established to the Commissioner's satisfaction that such company was incorporated in a tax haven for a legitimate business purpose.<sup>10</sup> The Unitary Legislation defines tax haven as a jurisdiction that:

- Has laws or practices that prevent effective exchange of information for tax purposes with other governments on taxpayers benefiting from the tax regime;
- Has a tax regime that lacks transparency;
- Facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy;
- Explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market; **or**
- Has created a tax regime which is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or services sector relative to its overall economy.

Irrespective of the above factors, a *tax haven* does **not** include a jurisdiction that has entered into a comprehensive income tax treaty with the United States, which the Secretary of the Treasury has determined is satisfactory for purposes of I.R.C. § 1(h)(11)(C)(i)(II).

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<sup>10</sup> If a worldwide election is made, all commonly owned companies engaged in a unitary business are included in the combined group regardless of where they are incorporated or for what purpose.



# XI. Maximum Tax Calculation/Nexus Combined Base Tax

The Unitary Legislation provides a cap on the amount of tax that would otherwise be due on a combined unitary basis. Specifically, the Unitary Legislation provides that a combined group's tax, prior to the surtax and the application of credits, may not exceed its nexus combined base tax<sup>11</sup> by more than \$2.5 million.

## A. Calculation of Maximum Tax/Nexus Combined Base Tax

To calculate a combined group's nexus combined base tax, each taxable member must separately calculate its apportioned net income and capital base as if it were not required to file a combined unitary tax return, subject to certain adjustments. These adjustments include:

- For net income purposes, intangible income and expenses between taxable members of the combined group and intercorporate dividends are eliminated.
- For capital base purposes, intercorporate stockholdings between taxable members are eliminated.
- For net income apportionment purposes, receipts between taxable members of the combined group are eliminated.

The resulting separately apportioned net income<sup>12</sup> and capital bases of each taxable member are then aggregated. The tax rates applicable to net income and the capital base, other than the surtax, are then applied to both aggregate amounts.<sup>13</sup> The nexus combined base tax equals the greater of the tax due, prior to surtax, on the aggregated net income and capital bases.

To calculate a combined group's maximum tax, add \$2.5 million to the nexus combined base tax. Compare the resulting maximum tax to the tax calculated on the standard combined unitary basis, determined prior to the surtax and the application of credits. If the maximum tax is greater than or equal to the tax on the standard combined unitary basis, the group is subject to tax on the combined unitary basis. If the maximum tax is less than the tax on the standard combined unitary basis, the group is subject to the maximum tax. Such maximum tax is attributed to each taxable member as described in *Example L*, on Page 29. After attribution, any applicable surtax is applied and then credits may be utilized as described in *Section VIII., Application of Credits*, on Page 13.

## Net Operating Losses

For purposes of calculating the nexus combined base tax, NOLs from prior years may be utilized. NOLs that may be utilized include NOLs reported on Form CT-1120, Form CT-1120CR or Form CT-1120U or NOLs reported in the calculation of the nexus combined base tax. NOLs reported in the calculation of the nexus combined base tax and NOLs reported on a Form CT-1120 or Form CT-1120CR may be utilized in a manner consistent with the rules prescribed by Conn. Agencies Regs. § 12-223a-2. NOLs reported on a Form CT-1120U may be utilized by any taxable member that filed as part of such return in the year of the loss.

Conn. Gen. Stat. § 12-217(a)(4) limits the total amount of NOLs that combined groups may deduct in the calculation of the nexus combined base tax. A group's total NOL deductions for nexus combined base tax purposes may not exceed 50% of the group's aggregated net income, determined prior to NOL deductions.

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<sup>11</sup> The nexus combined base tax is modeled after the recently repealed provisions of Conn. Gen. Stat. § 12-223a. Prior to its repeal, taxpayers filed returns under such provisions on **Form CT-1120CR**, *Combined Corporation Business Tax Return*.

<sup>12</sup> In general, each taxable member must utilize the single sales factor to apportion its net income.

<sup>13</sup> For income year 2016, the net income tax rate is 7.5% and the capital base tax rate is 0.31%. The capital base tax calculated under the nexus combined basis cannot exceed \$1 million.

## **B. Filing Requirements**

A combined group does not need to calculate its maximum tax if its tax on a combined unitary basis does not exceed \$2.5 million, prior to the surtax and the application of credits.

A combined group that does not file the maximum tax calculation with its original return may file such calculation with an amended return or provide such calculation to DRS during the course of an audit, if it becomes applicable.

## **XII. Miscellaneous Provisions**

### **A. Designated Taxable Member**

The combined group must select a designated taxable member. The designated taxable member is responsible for filing returns, filing extensions, making payments, and making an affiliated group or worldwide election. If the common parent is a taxable member in the combined group, it must be the designated taxable member. Otherwise, any taxable member may be selected. The combined group must submit notice of the selection of its designated taxable member, in writing, by the due date or extended due date of the combined unitary tax return. The Commissioner will develop forms for such selection.

If a combined group fails to select a designated taxable member, DRS will select said member for the group. The Commissioner is authorized, in his discretion, to disregard the designated taxable member selected by the combined group and select a different member. However, the Commissioner will only exercise this discretionary authority if he deems it to be administratively necessary.

Even though the designated taxable member is responsible for filing and paying on behalf of the combined group, each taxable member is jointly and severally liable for the tax due.

The designated taxable member is authorized to perform the following acts<sup>14</sup> on behalf of the members of the combined group:

- Sign returns;
- Apply for extensions;
- Consent to extend the statute of limitations for assessment;
- Make offers of compromise;
- Enter into closing agreements; **and**
- Receive refunds.

DRS typically will issue notices and assessments to the designated taxable member. However, DRS may issue these notices and assessments to any member of the combined group if administratively necessary.

### **B. Determination of Combined Group Income Years**

If two or more members of the combined group file a federal consolidated return, the group income year is the same as used for said federal consolidated return. Otherwise, the group income year is the designated taxable member's income year. If a member has a different income year than the group's income year, it should report the amounts from its income year ending during the group's income year in the combined group's return. However, no amounts reported from income years beginning before January 1, 2016 should be included. Amounts from income years beginning before January 1, 2016 should be reported on the applicable 2015 Corporation Business Tax return.

### **C. R&D Credit Exchange**

Each taxable member of a combined group must separately apply the provisions of Conn. Gen. Stat. § 12-217ee in determining whether it is allowed to exchange R&D credits.

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<sup>14</sup> A change to the designated taxable member will not affect any actions taken by the prior designated taxable member.

## **D. Interest on Underpayment of Estimated Tax**

Combined groups are required to make estimated tax payments on a quarterly basis. The amount of each estimated payment is calculated based upon the group's required annual payment. In general, the required annual payment is the lesser of:

- 90% of the tax due, after application of credits, for the current income year; **and**
- 100% of the tax due, before application of credits for the preceding income year.

For income year 2016 (the first year for which a combined unitary tax return is due), the second prong of the required annual payment equals the sum of the following:

- With respect to a combined group member that filed a separate tax return in the prior year, the tax due on said return, before application of credits; **and**
- With respect to a combined group member that filed as part of a CT-1120CR or CT-1120U in the prior year, the tax due for the entire group in the prior year, before application of credits, regardless of whether all the members from the prior year's return are included in the combined unitary tax return.

For income years beginning in 2017 and thereafter, the second prong of the required annual payment will be based upon the total tax due from all members of the combined group that filed with the designated taxable member in the prior year.

# Example A

## Charitable Contribution Limitation

The members of a combined group made the following charitable contributions during the income year:

	Charitable Contributions
Member A	\$50
Member B	\$20
Member C	\$30
Member D	\$0
<b>Total</b>	<b>\$100</b>

The combined group's charitable contribution limit is \$20. The following shows the amount of the charitable deduction each member can deduct on the return for the current year and the amount that it carries forward to the next income year:

	Deduction	Carryforward
Member A	\$10	\$40
Member B	\$4	\$16
Member C	\$6	\$24
Member D	\$0	\$0
<b>Total</b>	<b>\$20</b>	<b>\$80</b>

## Example B

### Capital Gains/Losses

#### Example B1

Members A, B, and C are part of a combined group. Members A and B are taxable members. No capital losses have been carried into the income year.

	Member A	Member B	Member C	Total
Capital Gain/Loss	\$200	(\$70)	(\$30)	\$100
Aggregate Gain/Loss	\$100	\$100	N/A	-----
Apportionment	20%	10%	N/A	-----
Apportioned Gain/Loss	\$20	\$10	N/A	\$30

As there is a net capital gain and there are no loss carryforwards from prior years to apply, the apportioned gain is added to the income otherwise apportioned to Members A and B (the taxable members) and no further calculations are required for purposes of calculating the capital gain.

#### Example B2

Same facts as *Example B1*, but the group has an aggregate net capital loss in the current year.

	Member A	Member B	Member C	Total
Capital Gain/Loss	\$200	(\$270)	(\$30)	(\$100)
Aggregate Gain/Loss	(\$100)	(\$100)	N/A	-----
Apportionment	20%	10%	N/A	-----
Apportioned Gain/Loss	(\$20)	(\$10)	N/A	(\$30)

As there is a net capital loss, the apportioned losses are carried forward to the next income year. No deduction is allowed from the income otherwise apportioned to Members A and B on the current year return.

#### Example B3

Members A and B carry forward the losses from *Example B2* into the next income year.

	Member A	Member B	Member C	Total
Capital Gain/Loss	\$100	\$75	\$25	\$200
Aggregate Gain/Loss	\$200	\$200	N/A	-----
Apportionment	7.5%	15%	N/A	-----
Apportioned Gain/Loss	\$15	\$30	N/A	\$45
Carryforward utilized	(\$15)	(\$10)	N/A	(\$25)
Apportioned Gain/Loss After Carryforward	\$0	\$20	N/A	\$20
Remaining Loss Carryforward	\$5	\$0	N/A	\$5

The apportioned capital gain after application of the carryforward is added to the income otherwise apportioned to Member B. Member A has \$5 of remaining carryforward that it may utilize in subsequent years.

## Example C

### Assignment of Nontaxable Members' Receipts

Connecticut Receipts	
1. Member A (taxable member) .....	\$50
2. Member B (taxable member) .....	\$150
3. Member C (nontaxable member) .....	\$100
Assignment of Member C's Connecticut Receipts to Member A and Member B	
4. Total Connecticut Receipts of Taxable Members (add Line 1 and Line 2) .....	\$200
5. Member A's ratio (Line 1 divided by Line 4) .....	25%
6. Member C's Connecticut Receipts Assigned to Member A (multiply Line 3 by Line 5).....	\$25
7. Member B's ratio (Line 2 divided by Line 4) .....	75%
8. Member C's Connecticut Receipts Assigned to Member B (multiply Line 3 by Line 7) .....	\$75
Taxable Members Connecticut Receipts After Assignment of Nontaxable Members' Connecticut Receipts	
9. Member A (add Line 1 and Line 6).....	\$75
10. Member B (add Line 2 and Line 8) .....	\$225

## Example D

### Apportionment by Taxable Members

In this example, Members A and B are taxable members and must use the single sales factor to apportion the combined group's net income:

	Member A	Member B
Connecticut Receipts <sup>1</sup>	\$90	\$225
Group's Everywhere Receipts	\$600	\$600
Apportionment Percentage	15%	37.5%
Combined Group Net Income	\$100	\$100
Member's Portion of Combined Group's Net Income	\$15	\$37.50

<sup>1</sup> Includes receipts assigned from nontaxable members



## Example E

### Elimination of Pass-Through Entity Receipts

In this example, a pass-through entity is engaged in a unitary business with members of the combined group. Combined group Member A receives a 60% distributive share of the pass-through entity's income (a third party, not included in the combined group, receives the remaining 40%). As such, 60% of the pass-through entity's income is included in the combined group's net income.

Combined group Member B receives \$200 of receipts from transactions with the pass-through entity. As 60% of the pass-through entity's income is included in the combined group's net income, 60% of the receipts that Member B receives from the pass-through entity are eliminated for net income apportionment purposes. Accordingly, \$120 of Member B's receipts that it received from the pass-through entity are eliminated from the apportionment calculation while the remaining \$80 of receipts are included.

## Example F

### Net Operating Losses

#### Example F1

Member A (taxable member) filed a separate Corporation Business Tax return in the prior year in which it incurred an NOL of \$20. Member B (taxable member) filed a separate Corporation Business Tax return in the prior year and has no NOL carryforward available.

	Member A	Member B
Member's Apportioned Portion of Combined Group's Net Income	\$15	\$37.50
NOL Deduction	(\$7.50)	\$0
Combined Group Net Income (After NOL)	\$7.50	\$37.50
NOL carryforward	\$12.50	\$0

Member A's NOL deduction is limited to 50% of its net income pursuant to Conn. Gen. Stat. § 12-217(a)(4). Member A may carry forward the \$12.50 NOL and offset its portion of the Combined Group's Net Income in future years.

### Example F2

Members A and B (both taxable members) filed a Form CT-1120CR in the prior year on which the group reported an NOL of \$20.

	Member A	Member B
Member's Apportioned Portion of Combined Group's Net Income	\$15	\$37.50
NOL Deduction	(\$7.50)	(\$12.50)
Combined Group Net Income (After NOL)	\$7.50	\$25
NOL carryforward	\$0	\$0

The \$20 NOL was fully utilized on the current year's return.

Because the NOL was reported on a Form CT-1120CR that included both Member A and B, either Member A or B could have utilized all or any portion of the NOL on the current year return, subject to the 50% of net income limitation.

### Example F3

Members A and B (both taxable members) filed a combined unitary tax return under the provisions of the Unitary Legislation in the prior year and Member A incurred an NOL of \$20.

	Member A	Member B
Member's Apportioned Portion of Combined Group's Net Income	\$15	\$37.50
NOL Deduction	(\$7.50)	(\$12.50)
Combined Group Net Income (After NOL)	\$7.50	\$25
NOL carryforward	\$0	\$0

Member A shared its NOL with Member B.

Again, as in Example E2, because the NOL was reported on a combined unitary tax return that included both Member A and B, either Member A or B could have utilized all or any portion of the Member A's NOL on the current year return, subject to the 50% of net income limitation.

## Example G

### Capital Base Tax

In this example, Members A, B, and C are taxable members of a combined group. Member C is a financial service company under Conn. Gen. Stat. § 12-218b.

	Member A	Member B	Member C
Combined Capital Base	\$10 million	\$10 million	N/A
Member's Connecticut Assets	\$1 million	\$2 million	N/A
Combined Group's Everywhere Assets	\$20 million	\$20 million	N/A
Apportionment Fraction	5%	10%	N/A
Apportioned Base	\$500,000	\$1,000,000	N/A
Tax Rate	0.31%	0.31%	N/A
Capital Base Tax	\$1,550	\$3,100	\$250

The combined group's aggregate capital base tax is \$4,900. As Member C is a financial service company, it is only subject to a capital base tax of \$250.

## Example H

### Proration of Capital Base Tax

This example illustrates the proration of the capital base tax when the aggregate capital base tax calculated for a combined group exceeds the \$1 million maximum.

	Member A	Member B	Member C	Member D	Total
Capital Base Tax	\$250,000	\$500,000	\$750,000	\$250	\$1,500,250
Capital Base Tax (without \$250 minimum)	\$250,000	\$500,000	\$750,000	-----	\$1,500,000
Percentage (Member's capital base tax/Group capital base tax without \$250 minimum)	16.67%	33.33%	50%	N/A	-----
Maximum tax to be Prorated <sup>1</sup> (see below)	\$999,750	\$999,750	\$999,750	N/A	-----
Adjusted Capital Base Tax	\$166,625	\$333,250	\$499,875	\$250	\$1,000,000

<sup>1</sup> Capital Base Tax Maximum ..... \$1,000,000  
 Less: Member D's Minimum Tax ..... (\$250)  
 Maximum Tax to be Prorated ..... \$999,750

## Example I

### Comparison of Net Income and Capital Bases

In this example, Members A, B, and C are taxable members of a combined group.

	Member A	Member B	Member C	Total
Tax on Net Income	\$1,000	\$500	\$300	\$1,800
Tax on Capital	\$500	\$650	\$250	\$1,400
Greater of Two Bases	\$1,000	\$500	\$300	\$1,800
Surtax (20% in 2016)	\$200	\$100	\$60	\$360
Total Tax	\$1,200	\$600	\$360	\$2,160

The total tax on net income is greater than the total tax on capital. Therefore, all taxable members are subject to tax on net income. Comparison should occur after proration to reduce capital base tax to \$1 million, if applicable.

## Example J

### Credit Ordering

#### Example J1

Members A and B are the taxable members of a combined group in 2016. Members A and B both have earned certain credits that are described below. No portion of these credits have been used in prior years. Members A and B filed separate returns prior to 2016 and are now filing a combined unitary tax return together for 2016.

Year	Member A's Tax Credits		Member B's Tax Credits
	Fixed Capital (FCIC)	Machinery & Equipment (M&E)	Electronic Data Processing Equipment (EDP)
2011	\$50,000	\$0	\$30,000
2012	\$40,000	\$0	\$25,000
2013	\$30,000	\$0	\$20,000
2014	\$20,000	\$0	\$15,000
2015	\$10,000	\$0	\$10,000
2016	\$0	\$50,000	\$5,000

In 2016, Member A may use the credits it earned (the FCIC and M&E credits reported above) plus the EDP credit Member B earned in 2016 (because Members A and B file as part of a combined unitary tax return in 2016).

In 2016, Member B may use the credits it earned (the EDP credits reported above) plus the M&E credit Member A earned in 2016 (again, because Members A and B file as part of a combined unitary tax return in 2016).

Pursuant to the general credit ordering rules:

- M&E credits must be used prior to FCIC credits and EDP credits and may not be carried forward.
- FCIC credits must be used prior to EDP credits and may be carried forward for up to five years.
- EDP credits are used after M&E credits and FCIC credits and may be carried forward for up to five years.

The following illustrates the order in which Members A and B should claim the credits above:

	Member A	Member B	Total
Tax	\$10,000	\$100,000	\$110,000
<b>Credits Utilized</b>			
Member A's 2016 M&E Credit	\$5,010	\$44,990	\$50,000
Member B's 2011 EDP Credit	-----	\$5,020	\$5,020
Tax After Credits <sup>1</sup>	\$4,990	\$49,990	\$54,980

<sup>1</sup> In 2016, credits are limited to 50.01% of the tax due.

Because the 2016 M&E credit could be used by either Member A or B, either such member could use all or a portion of such credit. If a credit may be used by multiple members of a combined group, the credit should be used by the member that allows the combined group to maximize its overall credit utilization.

### Example J2

In 2017, Members A and B are the taxable members of a combined group. In 2017, Member B earns a Research and Development credit of \$90,000. No other credits are earned in 2017. The unused portions of Member A's 2011 FCIC credit and Member B's 2011 EDP credit expired at the end of 2016 and are not available in 2017.

Year	Member A's Tax Credits	Member B's Tax Credits	
	Fixed Capital (FCIC)	Research and Development (R&D)	Electronic Data Processing Equipment (EDP)
2012	\$40,000	\$0	\$25,000
2013	\$30,000	\$0	\$20,000
2014	\$20,000	\$0	\$15,000
2015	\$10,000	\$0	\$10,000
2016	\$0	\$0	\$5,000
2017	\$0	\$90,000	\$0

In 2017, Member A may use the credits it earned (the FCIC credits reported above) plus the EDP credit Member B earned in 2016 and the R&D credit Member B earned in 2017 (because Members A and B filed together as part of combined unitary tax returns in 2016 and 2017).

In 2017, Member B may use the credits it earned (the R&D and EDP credits reported above). It may not use any of Member A's credits.

Pursuant to the general credit ordering rules:

- FCIC credits must be used prior to R&D credits and EDP credits and may be carried forward for up to five years.
- R&D credits must be used prior to EDP credits and may be carried forward until used.
- EDP credits are used after FCIC credits and R&D credits and may be carried forward for up to five years.

In 2017, R&D credits may be utilized beyond the 50.01% credit limitation if any such credits remain after credits are utilized in accordance with the general credit ordering rules. In 2017, credits used under the standard rules and excess credits may not reduce the tax due by more than 60%. In no event may any credits, other than those specifically identified as excess credits, be utilized beyond the 50.01% credit limitation.

The following illustrates the order in which Members A and B should claim the credits above:

	<b>Member A</b>	<b>Member B</b>	<b>Total</b>
Tax	\$70,000	\$140,000	\$210,000
<b>Credits Utilized</b>			
Member A's 2012 FCIC Credit	\$35,007	-----	\$35,007
Member B's 2017 R&D Credit	-----	\$70,014	\$70,014
<b>Excess Credits Utilized</b>			
Member B's 2017 R&D Credit	\$6,000	\$13,986	\$19,986
Tax After Credits	\$28,993	\$56,000	\$84,993

In this example, \$19,986 of Member B's 2017 R&D credit remained after credits were applied up to the standard 50.01% credit limitation. Because such R&D credits remain, such credits are "excess credits" and may be utilized beyond the 50.01% credit limitation. For 2017, excess credits may not be utilized to reduce the tax by more than 60%.

As shown in the calculation, Member B used credits and excess credits to reduce its tax by \$84,000, which was 60% of its liability, the maximum reduction. Member A used credits and excess credit to reduce its tax by \$41,007, which was 58.6% of its liability. If additional excess credits were available, Member A could have also reduced its tax by up to 60% of its liability.

## Example K

### Calculation of Net DTL Deduction

1. Net Deferred Tax Assets – As of 12/31/2015, before Consideration of Unitary Provisions .....	\$500
2. Net Deferred Tax Assets – As of 12/31/2015, after Consideration of Unitary Provisions .....	\$425
3. Reduction in Net Deferred Tax Assets Due to Unitary Provisions (Line 1 minus Line 2) .....	\$75
4. Corporation Business Tax Rate .....	7.5%
5. Reduction in Net DTA Divided By Tax Rate (Line 3 divided by Line 4) .....	\$1,000
6. Group Net Income Apportionment Fraction <sup>1</sup> .....	10%
7. Total Net DTL Deduction (Line 5 divided by Line 6) .....	\$10,000
8. Annual Net DTL Deduction (Line 7 divided by 7) .....	\$1,429

<sup>1</sup> This represents the sum of each taxable member's separate net income apportionment fraction determined on the combined unitary basis.

## Example L

### Attribution of Maximum Tax

In this example, Members A and B are taxable members of a combined group.

	Member A	Member B	Member C
1. Combined Unitary Base Tax (before surtax and credits)	\$7,000,000	\$3,000,000	\$10,000,000
2. Nexus Combined Base Tax	-----	-----	\$3,500,000
3. Maximum Tax (Line 2 plus \$2.5 million)	-----	-----	\$6,000,000
4. Attribution of Maximum Tax (before surtax and credits)	\$4,200,000	\$1,800,000	\$6,000,000

The maximum tax is attributed to each taxable member in accordance with the relative percentage of its combined unitary base tax. In this case, Member A's portion of the combined unitary base tax accounted for 70% of the group's total combined unitary base tax. Therefore, Member A was attributed 70% of the maximum tax.



## **Effect on Other Documents**

DRS is in the process of identifying those documents affected by the legislative changes described herein, and will update those publications as soon as practicable.

## **Effect of This Document**

A Special Notice announces a new policy or practice in response to changes in state or federal laws or regulations or to judicial decisions. A Special Notice indicates an informal interpretation of Connecticut tax law by the DRS.

## **For Further Information**

Call DRS during business hours, Monday through Friday:

- **1-800-382-9463** (Connecticut calls outside the Greater Hartford calling area only); or
- **860-297-5962** (from anywhere).

TTY, TDD, and Text Telephone users only may transmit inquiries anytime by calling 860-297-4911.

## **Forms and Publications**

Visit the DRS website at [www.ct.gov/DRS](http://www.ct.gov/DRS) to download and print Connecticut tax forms and publications.

## **Paperless Filing/Payment Methods (fast, easy, free, and confidential)**

Business and individual taxpayers can use the **Taxpayer Service Center (TSC)** at [www.ct.gov/TSC](http://www.ct.gov/TSC) to file a variety of tax returns, update account information, and make payments online.

### **File Electronically**

You can choose first-time filer information and filing assistance or log directly into the *TSC* to file returns and pay taxes.

### **Pay Electronically**

You can pay taxes for tax returns that cannot be filed through the *TSC*. Log in and select the *Make Payment Only* option. Designate a payment date up to the due date of the tax and mail a paper return to complete the filing process.

## **DRS E-Alerts Service**

Get connected to the latest news from DRS. Receive notification by email of changes to legislation, policies, and procedures.

DRS E-Alerts provide information for employer's withholding tax, News – Press Releases, and Top 100 Delinquency List. Visit the DRS website at [www.ct.gov/DRS](http://www.ct.gov/DRS) and select Sign up for e-alerts under *How Do I?* on the gold navigation bar.

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