

Income/Franchise:

Illinois DOR Denies Alternative Apportionment Request to Include Royalties in Sales Factor

General Information Letter IT 24-0006-GIL, Ill. Dept. of Rev. (6/24/24). Responding to a global consumer products company's request to employ an alternative apportionment method on its Illinois corporate income tax combined return with US subsidiaries who all received royalties from foreign affiliates through licensing arrangements for the intangibles they owned, the Illinois Department of Revenue (Department) rejected inclusion of such royalties in the company's sales factor and concluded that:

URL:
<https://tax.illinois.gov/content/dam/soi/en/web/tax/research/legalinformation/lett rulings/it/documents/2024/IT24-0006-GIL.pdf>

- Such royalty income did not comprise more than 50% of the taxpayer's total gross receipts included in gross income as required for inclusion under Illinois standard apportionment statutes; and
- The taxpayer failed to show there was anything inherently distortive or unfair in excluding the royalties at issue from the sales factor based on the taxpayer's activities in this case.

In its lengthy ruling, the Department noted that the taxpayer's sales factor consisted primarily of sales of tangible personal property representing consumer goods sold by members of the Illinois combined group, and the taxpayer failed to show that an alternative apportionment formula would more accurately represent its market in Illinois. The Department added that an alternative apportionment method may not be invoked, either by the Department or by a taxpayer, merely because it reaches a different apportionment percentage than the required statutory formula. Under Illinois' standard apportionment formula, gross receipts from the licensing of intangible property (*e.g.*, royalties) are included in the sales factor only if gross receipts from licensing of such items comprise more than 50% of the taxpayer's total gross receipts included in gross income during the tax year and during each of the two immediately preceding tax years. Please contact us with any questions.

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