

TITLE 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 2—Income Tax

12 CSR 10-2.045 Missouri Consolidated Income Tax Returns. The department is amending each section of the rule.

Purpose: This amendment, among other things, updates the rule's references to corporate income apportionment methods, modifies a method of determining interstate apportionment for certain consolidated return filers under this rule, removes the requirement that certain approvals have the personal signature of the director of revenue, alters certain deadlines, and accounts for a Missouri Supreme Court opinion relating to this rule.

[(1) Authority for Regulation. This rule is promulgated under the general regulatory powers granted to the director of revenue and the specific authority set forth in section 143.431.3(5), RSMo, relating to Missouri consolidated income tax returns.

[(2)] (1) Affiliated group. The term affiliated group means those members of an affiliated group of corporations as defined by Internal Revenue Code (IRC) Section 1504 [and the applicable treasury regulations] which participate or are required to participate in the filing of a federal consolidated income tax return for the taxable year.

[(3)] (2) Missouri consolidated return year. The term Missouri consolidated return year means a taxable year for which a Missouri consolidated return is filed or required to be filed by an affiliated group under this rule.

[(4) New member. The term new member shall mean a corporation which is a member of an affiliated group during the current Missouri consolidated return year but which was not a member of the group for the immediately preceding Missouri consolidated return year.

(5) Multistate Tax Compact. The term Multistate Tax Compact shall mean the Multistate Tax Compact as enacted into law in Missouri as section 32.200, RSMo].

[(6)] (3) IRC section. The term IRC section shall mean the pertinent provision of the Internal Revenue Code for the taxable year.

[(7)] (4) Required member. The term required member shall mean any corporation included on the federal consolidated return for the affiliated group, except[:]-

(A) An express company which [pays] is subject to an annual tax on its gross receipts in this state pursuant to section 153.020, RSMo;

(B) An insurance company which [pays] is subject to an annual tax on its gross premium receipts in this state;

(C) A Missouri mutual or extended Missouri mutual insurance company organized under Chapter 380, RSMo; or

(D) An association or credit union which *[pays]* **is subject to** an annual tax pursuant to section 148.620, RSMo.

[(8) Treas. Reg. Section. The term Treas. Reg. Section shall mean the pertinent provisions of the regulation promulgated by the United States Treasury for the taxable year.]

[(9)] **(5)** Director *[of revenue]*. The term director *[of revenue]*, except as otherwise specifically provided in this rule, shall mean the director of revenue or his/her duly authorized agent or designee.

[(10) Computing Missouri consolidated taxable income from all sources. The Missouri consolidated taxable income (all sources) of an affiliated group shall be its federal consolidated taxable income for the taxable year, adjusted to reflect the modifications provided in section 143.121, RSMo, and the applicable modifications provided in section 143.141, RSMo, and to reflect the exclusion of any members of the affiliated group that are not required members. There shall be subtracted the federal income tax deduction provided in section 143.171, RSMo. There shall be subtracted, to the extent included in federal consolidated taxable income, corporate dividends from sources within Missouri.

(11) Computing Missouri consolidated taxable income from Missouri sources.

(A) The Missouri consolidated taxable income (Missouri sources) of an affiliated group shall be so much of its Missouri consolidated taxable income (all sources) as is derived from sources within Missouri pursuant to the interstate division of income rules set forth in section (18) of this rule. If only part of the Missouri consolidated taxable income (all sources) is derived from sources within Missouri, the Missouri consolidated taxable income (Missouri sources) shall only reflect the effect of the following listed deductions to the extent applicable to Missouri:

1. The deduction for federal income tax provided in section 143.171, RSMo; and

2. The effect on Missouri consolidated taxable income (all sources) of the deduction for consolidated net operating loss allowed by IRC Section 172 and the applicable Treas. Reg. issued under IRC Section 1502. The extent these deductions applicable to Missouri shall be determined by multiplying the amount that would otherwise affect Missouri consolidated taxable income (all sources) by the ratio of Missouri consolidated taxable income (Missouri sources) for the year divided by the Missouri consolidated taxable income (all sources) for the year. For the purpose of the preceding sentence, Missouri consolidated taxable income shall not reflect the deductions listed in subsections (A) and (B) of this section.

(B) If an affiliated group files a Missouri income tax return in which one (1) or more members of the affiliated group are not required members, the federal income tax deduction for such Missouri income tax return shall be determined by multiplying the federal income tax liability of the affiliated group by a fraction, the numerator of which is the sum of the federal taxable incomes of

the required members and the denominator of which is the sum of the federal taxable incomes of all members of the affiliated group.

(12) Qualifying for Privilege to File Consolidated Return. An affiliated group (other than one which is required to file a Missouri consolidated return for the year) shall be qualified to file a Missouri consolidated return if—

(A) It files a federal consolidated return for the taxable year;

(B) Each corporation which has been a member of the affiliated group during any part of the taxable year for which the Missouri consolidated return is to be filed consents to this rule in the manner provided in sections (24)–(26) of this rule; and

(C) The affiliated group is not disqualified from filing a Missouri consolidated return for the year under section (16) of this rule.

(13) Election to File. For tax years with a due date for filing the common parent's Missouri return (including extensions of time to file) after December 28, 1998, if an affiliated group qualified to file a Missouri consolidated return wishes to elect to file a Missouri consolidated return, the election must be exercised by the filing of a Missouri consolidated return on or before the due date (including extensions of time) for the filing of the common parent's separate Missouri return. For tax years with a due date for filing the common parent's Missouri return (including extensions of time to file) before December 28, 1998, an affiliated group qualified to file a Missouri consolidated return could elect to file a Missouri consolidated return by the filing of—

(A) A Missouri consolidated return on or before the due date (including extensions of time) for the filing of the common parent's separate Missouri return; or

(B) If the affiliated group did not file a Missouri consolidated return within such time because it was precluded from doing so under Missouri law, a Missouri consolidated return within the statute of limitations applicable to the filing of an amended return.]

(6) Computing Missouri Consolidated Taxable Income From All Sources. The Missouri consolidated taxable income (all sources) of an affiliated group shall be its federal consolidated taxable income for the taxable year, adjusted to reflect the applicable modifications provided in section 143.121, RSMo, section 143.431.4, RSMo, section 143.141, RSMo, to reflect the federal income tax deduction under section 143.171, RSMo, and to reflect the exclusion (for purposes of calculating Missouri consolidated taxable income) of any members of the affiliated group that are not required members.

(7) Computing Missouri Consolidated Taxable Income From Missouri Sources.

(A) The Missouri consolidated taxable income (Missouri sources) of an affiliated group shall be so much of its Missouri consolidated taxable income (all sources) as is derived from sources within Missouri pursuant to the apportionment and allocation rules set forth in

section (14) of this rule, reduced, to the extent applicable, by the Missouri dividends deduction under section 143.431.2, RSMo.

(B) If only part of the Missouri consolidated taxable income (all sources) is derived from sources within Missouri, the Missouri consolidated taxable income (Missouri sources) shall only reflect the effect of the consolidated net operating loss deduction allowed by IRC Section 172 to the extent applicable to Missouri. The extent to which this deduction is applicable to Missouri shall be determined by multiplying the amount that would otherwise affect Missouri consolidated taxable income (all sources) by the ratio of Missouri consolidated taxable income (Missouri sources) for the year divided by the Missouri consolidated taxable income (all sources) for the year. For the purpose of the preceding sentence, Missouri consolidated taxable income shall not reflect the consolidated net operating loss deduction allowed by IRC Section 172.

(C) If an affiliated group files a Missouri income tax return in which one (1) or more members of the affiliated group are not required members, the federal income tax deduction for such Missouri income tax return shall be determined by multiplying the federal income tax liability of the affiliated group by a fraction, the numerator of which is the sum of the positive federal taxable incomes of the required members and the denominator of which is the sum of the positive federal taxable incomes of all members of the affiliated group, and then multiplying that result by fifty percent (50%). For purposes of the preceding sentence, a federal taxable income of zero is considered positive, and the federal income tax deduction shall not be allowed if the aforementioned numerator and denominator are both zero dollars (\$0).

(8) Qualifying for Privilege to File Consolidated Return. An affiliated group (other than one which is required to file a Missouri consolidated return for the year) shall be qualified to file a Missouri consolidated return if it files a federal consolidated return for the taxable year and the affiliated group is not disqualified from filing a Missouri consolidated return for the year under section (25)-(28) of this rule.

(9) Election to File. If an affiliated group qualified to file a Missouri consolidated return wishes to elect to file a Missouri consolidated return, the election must be exercised by the filing of a Missouri consolidated return on or before the due date (including extensions of time) for the filing of the common parent's separate Missouri return. Notwithstanding the foregoing, the director may grant an affiliated group a relief extension of this due date, even after the due date specified in the prior sentence has passed, if the affiliated group submits a letter ruling request under 12 CSR 10-1.020, as it may be amended from time to time, and which substantially complies with the requirements of 26 C.F.R. section 301.9100-3, as amended May 6, 2024, by providing evidence to establish to the satisfaction of the director that the taxpayer acted reasonably and in good faith, and that the grant of a relief extension will not prejudice the interests of the state.

[14](10) Election Irrevocable. The exercise of an election to file a Missouri consolidated return is irrevocable and may not be withdrawn after the due date (including extensions of time) for the

filing of the common parent's separate Missouri return, **except as provided in sections (25)-(28) of this rule.**

[(15)] (11) Continued Filing Requirement. Except as provided in sections [(32)-(35)] (25)-(28) of this rule, an affiliated group which filed (or was required to file) a Missouri consolidated return for the immediately preceding taxable year is required to file a Missouri consolidated return for the current taxable year.

[(16) Disqualification to File. If an affiliated group filed (or was required to file) a Missouri consolidated return for the immediately preceding taxable year and, by virtue of sections (32)-(35) of this rule, it does not file or is not permitted to file a Missouri consolidated return for the current taxable year, then it shall not be qualified to file a Missouri consolidated return for a period of five (5) years after its last preceding Missouri consolidated return year.

(17) Filing Consolidated Return in Special Circumstances. Notwithstanding that an affiliated group may be disqualified to file a Missouri consolidated return for the current taxable year under section (16) of this rule, the director of revenue may permit the affiliated group to file a Missouri consolidated return for the current taxable year. Application for permission shall be directed to the personal attention of the director of revenue, shall be made in writing, and shall set forth in detail the factual and legal arguments which the director of revenue is being requested to consider. No application for permission shall be granted until the affiliated group receives written permission bearing the signature of the director of revenue.

(18) Interstate Division of Income Rules for First Missouri Consolidated Return Year. In the determination of that portion of the Missouri consolidated taxable income (all sources) as is derived from sources within Missouri, the affiliated group shall select, in its first Missouri consolidated return year, one (1) of the applicable interstate division of income methods set forth in the following subsections:

(A) Method Under Section 143.451.2., RSMo. If each member of the affiliated group, if filing separate Missouri returns, would qualify to determine that portion of its Missouri taxable income as is derived from sources within Missouri by application of the interstate division of income methods set forth in section 143.451.2., RSMo, then the affiliated group, as a whole, shall use either—

- 1. The single factor sales (business transactions) method provided in section 143.451.2., RSMo; or*
- 2. The uniform method for division of income provided in the Multistate Tax Compact and the corresponding rules of the Missouri Department of Revenue;*

(B) Method Under Section 143.451.3.–143.451.6., RSMo. If each member of the affiliated group, if filing separate Missouri returns, would qualify to determine that portion of its Missouri taxable income derived from sources within Missouri by application of the interstate division of income methods, set forth in section 143.451.3–143.451.6., RSMo (and each mem--ber uses the same method), then the affiliated group, as a whole, shall use either—

1. The applicable method set forth in section 143.451.3.–143.451.6., RSMo; or
2. The uniform method for division of income provided in the Multistate Tax Compact and the corresponding rules of the Missouri Department of Revenue;

(C) Method Under Section 143.461, RSMo. If each member of the affiliated group, if filing separate Missouri returns, would qualify to determine that portion of its Missouri taxable income as is derived from sources within Missouri by application of the elective division of income method approved under section 143.461, RSMo (and each member uses the same approved method) then the affiliated group, as a whole, shall use either—

1. The elective division of income method approved under section 143.461, RSMo; or
2. The uniform method for division of income provided in the Multistate Tax Compact and the corresponding rules of the Missouri Department of Revenue;

(D) Members to Which Different Interstate Division of Income Methods Apply—General Rule (If the affiliated group is composed of a membership such that, if separate Missouri returns were filed by each member, the same interstate division of income method under sections 143.451.2., RSMo (relating to general business corporations), 143.451.3., RSMo (relating to transportation), 143.451.4., RSMo (relating to railroads, and the like), 143.451.5., RSMo (relating to interstate bridges), 143.451.6., RSMo (relating to telephone or telegraph companies), or 143.461, RSMo (other approved methods), would not apply to each member, then the affiliated group, as a whole, shall determine that portion of its Missouri consolidated taxable income (all sources) as is derived from sources within Missouri by application of—

1. The uniform method for division of income provided in the Multistate Tax Compact and the corresponding rules of the Missouri Department of Revenue;
2. The method the director of revenue may approve after a finding of special circumstances; or
3. The percentage obtained by the method set forth in subsection (18)(E) of this rule; and

(E) Members to Which Different Interstate Divisions of Income Methods Apply—Special Rule. If an affiliated group described in subsection (18)(D) of this rule and it elects to use the interstate division of income method referred to in paragraph (18)(D)2. of this rule, it shall arrive at an interstate division of income percentage in the following manner:

1. Each member shall determine its own federal taxable income (loss) for the year, computed as though each member had filed a separate federal income tax return for the year. For the purposes of this paragraph, the separate federal taxable income (loss) of each member shall not reflect the deduction for net operating loss allowable by IRC Section 172, and shall not reflect dividend income from sources within Missouri;
2. Each member shall adjust its own separate federal taxable income (loss) so determined to reflect the modifications provided in sections 143.121 and 143.141, RSMo, applicable to those members.

If, as a result of the computation contained in this paragraph (18)(E)2., a member has a separate Missouri taxable loss for the year, that member, for purposes of subsection (18)(E), shall be considered to have had a positive Missouri taxable income for the year in an amount equal to the loss;

3. The amount determined pursuant to paragraphs (18)(E)1. and 2., for the purposes of subsection (18)(E), shall be considered the separate Missouri taxable income (all sources) of each member for the year;

4. Each member shall determine that portion of its own separate Missouri taxable income (all sources) as is derived from sources within Missouri by application of whichever interstate division of income method under section 143.451 or 143.461, RSMo, is applicable to each member; and

5. The combined amounts of the Missouri taxable income (Missouri sources) of each member, so determined, shall be divided by the combined amounts of the Missouri taxable income (all sources) of each member, so determined, to arrive at a percentage and the percentage thus obtained shall be deemed to be that percentage of the Missouri consolidated taxable income (all sources) as is derived from sources within Missouri.

(19) Intercompany Transactions. For the purposes of determining the amount of sales or business transactions under the interstate division of income methods provided in sections 143.451.2. and 143.461, RSMo, and in the Multistate Tax Compact, the term sales and business transactions shall include all intercompany sales (business transactions) as defined in Treas. Reg. Section 1.1502-13.

(20) Subsequent Missouri Consolidated Return Years. In the determination of Missouri consolidated taxable income (Missouri sources) for its second and succeeding Missouri consolidated return years, the affiliated group shall use the same interstate division of income method as it used in its first year, or select a different interstate division of income method pursuant to section (18) of this rule.

(21) Election of Interstate Division of Income Method. For any taxable year, the interstate division of income method may not be changed following the due date (including extensions of time) for filing the return for such year.]

(12) Improper Separate Return Filing. If an affiliated group filed (or was required to file) a Missouri consolidated return for the immediately preceding taxable year and, without authorization under sections (25)-(28) of this rule, one (1) or more required members of an affiliated group attempt to file Missouri corporate income tax returns on a separate basis for the taxable year, then -

(A) If the common parent has filed a Missouri corporate income tax return for the taxable year, the Missouri return of the common parent shall be deemed the sole Missouri consolidated return of the affiliated group and other Missouri corporate income tax returns filed by other required members of the affiliated group shall be void (with any payments made therewith being credited to the affiliated group);

(B) If the common parent has not filed a Missouri corporate income tax return for the taxable year, the affiliated group shall be deemed not to have filed a Missouri corporate income tax return for the taxable year until a Missouri income tax return is filed by the common parent, and the other returns filed by other required members of the affiliated group shall be void (with any payments made therewith being credited to the affiliated group).

(13) Filing Consolidated Return in Special Circumstances. Notwithstanding that an affiliated group may be disqualified to file a Missouri consolidated return for the current taxable year under sections (25)-(28) of this rule, the director may permit the affiliated group to file a Missouri consolidated return for the current taxable year. Application for permission shall be directed to the director's Taxation Division exclusively by email to corporate@dor.mo.gov, and approval of the application shall be subject to such terms and conditions as the director may prescribe.

(14) Apportionment and Allocation of Net Income for Missouri Consolidated Return. In the determination of that portion of the Missouri consolidated taxable income (all sources) as is derived from sources within Missouri, the affiliated group shall apportion and allocate its Missouri consolidated taxable income (all sources) according to the provisions of section 143.455.1-12, RSMo, except as otherwise provided in section (14) of this rule.

(A) Method Under Section 143.455.13, RSMo. The affiliated group, through its common parent, may petition, or the director may require, an alternative method of allocation or apportionment to be used in determining Missouri consolidated taxable income from Missouri sources consistent with sections 143.455.13(2)-(5), RSMo and 12 CSR 10-2.076. The approval of an alternative allocation or apportionment method for an affiliated group to use on a Missouri consolidated return does not constitute approval of the use of such alternative allocation or apportionment method on any separate Missouri return.

(B) Members to Which Different Apportionment and Allocation Methods Apply. If the affiliated group is composed of a membership such that, if separate Missouri returns were filed by each member, the same apportionment and allocation method under sections 143.455.1 through 143.455.12, RSMo (relating to general business corporations), 143.455.14, RSMo (relating to transportation), 143.455.15, RSMo (relating to railroads, and the like), 143.455.16, RSMo (relating to interstate bridges), 143.455.17, RSMo (relating to telephone or telegraph companies), 143.455.13, RSMo (other approved methods), or 12 CSR 10-2.260 would not apply to each member, then the affiliated group, as a whole, shall determine that portion of its Missouri consolidated taxable income (all sources) as is derived from sources within Missouri by application of—

1. The apportionment and allocation method under sections 143.455.1 through 143.455.12, RSMo, as further clarified by 12 CSR 10-2.076;

2. The apportionment and allocation approved or required for the affiliated group under sections 143.455.13(2)-(5), RSMo; or

3. The percentage obtained by the method set forth in subsection (14)(C) of this rule, but only if paragraph (14)(B)2. of this rule does not apply;

(C) Members to Which Different Apportionment and Allocation Methods Apply—Special Rule. If an affiliated group is described in subsection (14)(B) of this rule, but paragraph (14)(B)2. of this rule does not apply to the affiliated group, and it elects to use the method referred to in paragraph (14)(B)3. of this rule, it shall arrive at a percentage of Missouri consolidated taxable income (all sources) as is derived from sources within Missouri in the following manner:

1. Each member shall determine its own federal taxable income (loss) for the year, computed as though each member had filed a separate federal income tax return for the year. For the purposes of this paragraph, the separate federal taxable income (loss) of each member shall not reflect the deduction for net operating loss allowable by IRC Section 172;

2. Each member shall adjust its own separate federal taxable income (loss) so determined to reflect only the modifications provided in sections 143.121 and 143.141, RSMo, applicable to those members (therefore, the federal income tax deduction under section 143.171, RSMo, for example, is not taken into account for purposes of computing the percentage under this subsection). If, as a result of the computation contained in this paragraph (14)(C)2., a member has a separate Missouri taxable loss for the year, that member, for purposes of computing the percentage under subsection (14)(C), shall be considered to have zero Missouri taxable income (all sources) for the year;

3. The amount determined pursuant to paragraphs (14)(C)1. and (14)(C)2., for the purposes of computing the percentage under subsection (14)(C), shall be considered the separate Missouri taxable income (all sources) of each member for the year;

4. Each member shall determine that portion of its own separate Missouri taxable income (all sources) as is derived from sources within Missouri by application of whichever apportionment and allocation method under section 143.455, RSMo, and its related regulations, is applicable to each member (for example, a method under 12 CSR 10-2.260 may be applicable to one member, while the method under section 143.455.15, RSMo, is applicable to another), to arrive at a figure which will be called preliminary Missouri taxable income which shall not reflect further deductions or modifications such as the Missouri Dividends Deduction; and

5. The combined amounts of the preliminary Missouri taxable income of each member, so determined, shall be divided by the combined amounts of the Missouri taxable income (all sources) of each member, so determined, to arrive at a percentage and the percentage thus obtained shall be deemed to be that percentage of the Missouri consolidated taxable income (all sources) as is derived from sources within Missouri. If the combined amounts of the preliminary Missouri taxable income of each member total to zero, then the percentage shall be deemed zero percent (0%) even if the denominator is also zero.

(15) Intercompany Transactions. All transactions between required members of the affiliated group for the Missouri consolidated return year shall be eliminated for purposes of the Missouri consolidated income tax return. This includes all gross receipts, for purposes of section 143.455, RSMo, resulting from such transactions.

(16) Subsequent Missouri Consolidated Return Years. In the determination of Missouri consolidated taxable income (Missouri sources) for its second and succeeding Missouri consolidated return years, the affiliated group shall use the same apportionment and allocation method as it used in its first year, or select a different apportionment and allocation method to the extent permitted pursuant to subsection (14)(B) of this rule.

(17) Election of Interstate Division of Income Method. For any taxable year, the apportionment and allocation method elected under subsection (14)(B) is irrevocable for that taxable year, regardless of when such election is made.

(18) Computation of Tax Liability. The Missouri **corporate** income tax liability of an affiliated group for a Missouri consolidated return year shall be determined by adding together—

(A) The tax imposed by section 143.071, RSMo, on the Missouri consolidated taxable income (Missouri sources) for each year;

(B) The additions to tax imposed by section 143.741, RSMo;

(C) The additions to tax and penalties imposed by section 143.751, RSMo; and

(D) The additions to tax imposed by section 143.761, RSMo.

[(23)] **(19) Liability For Tax.** The common parent corporation and each required member which was a member of the affiliated group during any part of the Missouri consolidated return year shall be jointly and severally liable for the tax computed in accordance with this rule, together with the interest on the tax, computed in accordance with section 143.731, RSMo, **with the exception of any required members who are entirely exempt from Missouri corporate income tax for the Missouri consolidated return year pursuant to section 143.441.2, RSMo.** No agreement entered into by one (1) or more members of the affiliated group with any other member of the group or with any other person in any case shall have the effect of reducing the liability prescribed.

[(24)] **Consent to This Rule.** Each required member must execute a Form MO-22 (Authorization and Consent of Subsidiary Corporation to be Included in a Missouri Consolidated Income Tax Return) for the first Missouri consolidated return year in which it first becomes a member of the affiliated group. If a required member fails to execute a Form MO-22, the director of revenue may: a) treat such failure as a request by the affiliated group to discontinue, for good cause, the filing of a Missouri consolidated return with respect to the year of the failure and all Missouri consolidated return years after that; b) recalculate the Missouri tax liability of the affiliated group to include the required member; or c) accept the return without the consent pursuant to section (25) of this regulation.

The affiliated group shall continue to be subject to section (15) of this rule unless and until the director of revenue grants written permission to the affiliated group to discontinue the filing of Missouri consolidated returns.

(25) Consent Under Facts and Circumstances. If a required member fails to execute a Form MO-22, the director of revenue may determine that the member has joined in the making of the Missouri consolidated return of the affiliated group.

(26) Failure to Consent Due to Mistake. If any required member has failed to join in the making of a Missouri consolidated return and the common parent establishes to the satisfaction of the director of revenue that the failure was due to a mistake of law or fact, or to inadvertence, then the member shall be allowed to file a Form MO-22 and join in the making of the Missouri consolidated return.]

*[(27)](20) Consolidated Return Made by Common Parent. The Missouri consolidated return shall be made by the common parent on Form MO-1120 (Corporation Income Tax Return) and shall be filed by the common parent. **By filing the consolidated return, the common parent warrants that it has or has obtained, where necessary, any consent or authorization by a subsidiary or affiliate within the affiliated group to comply with the provisions of Missouri statutes and regulations pertaining to the consolidated return and to serve as their agent consistent with section (22) of this rule.***

[(28) Attachments to Form MO-1120. In addition to those matters required of all corporations, an affiliated group shall be required to submit the following items:

(A) For the first Missouri consolidated return year, a Form MO-22 executed by each member of an affiliated group;

(B) For the second and succeeding Missouri consolidated return years, a Form MO-22 executed by each new required member of an affiliated group;

(C) A detailed schedule i) identifying any members of the affiliated group that are not required members and the reason for exclusion, and ii) showing all adjustments to federal consolidated taxable income due to the exclusion of any members of the affiliated group that are not required members; and

(D) The affiliated group shall attach to its Form MO-MS (Corporation Allocation and Apportionment of Income) a detailed schedule which the interstate division of income data of each member of the affiliated group is set forth.]

(21) Attachments to Form MO-1120. In addition to those matters required of all corporations, an affiliated group filing a consolidated Missouri return shall be required to submit the following items in paper or electronic format:

(A) A detailed schedule-

1. identifying any members of the affiliated group that are required members and included on the Missouri consolidated return;

2. identifying any members of the affiliated group that are not required members and the reason for exclusion; and

3. showing all adjustments to federal consolidated taxable income due to the exclusion of any members of the affiliated group that are not required members;

(B) A copy of the federal consolidated return, with all attachments and schedules, that was filed or is being filed with the Internal Revenue Service for the same taxable year (if any); and

(C) The affiliated group shall attach to its Form MO-MS (Corporation Allocation and Apportionment of Income) a detailed schedule which the interstate division of income data of each member of the affiliated group is set forth.

[(29)](22) Common Parent as Agent for All Other Members. The common parent, for all purposes [other than the making of the consent required by subsection (12)(B) of this rule,] regarding Missouri corporate income tax under Chapter 143, RSMo, shall be the sole agent for each subsidiary member in the affiliated group, duly authorized to act in its own name in all matters relating to the Missouri income tax liability for the Missouri consolidated return year. No subsidiary member shall have authority to act for or to represent itself in any matter[.For example, all correspondence will be carried on directly with the common parent; the common parent shall file for all extensions of time, including extensions of time for payment of Missouri tax; notices of deficiencies will be mailed to the common parent and the mailing only to the common parent shall be considered as a mailing to each subsidiary member in the affiliated group; notice and demand for payment of taxes will be given only to the common parent and the notice and demand will be considered as a notice and demand to each subsidiary member; the common parent will file petitions and conduct proceedings before the director of revenue and the Administrative Hearing Commission; and any petition shall be considered as also having been filed by each subsidiary. The] **regarding Missouri corporate income tax for the same Missouri consolidated return year. The identification of the common parent on or with the filing of the MO-1120 for the Missouri consolidated return year, or a prior year, constitutes the designation of the common parent as an authorized representative for purposes of section 32.057, RSMo, with respect to each and all subsidiary members, and authorizes the disclosure of all tax information of any subsidiary member (for the Missouri consolidated return year and all prior years) to the common parent. For the Missouri consolidated return year, the common parent will file claims for refund or credit regarding Missouri corporate income tax and any Missouri corporate income tax refund will be made directly to and in the name of the common parent and will discharge any liability of Missouri in respect to that refund to any subsidiary member[;], and the common parent in its name will execute closing agreements and all other documents regarding Missouri corporate income tax and any agreement or any other documents so executed shall be considered as having also been given or executed by each subsidiary member. Notwithstanding the provisions of this section, any notice of deficiency, in respect to the tax for a Missouri consolidated**

return year, *[will]* **may** name each corporation which was a member of the affiliated group during any part of the period (but a failure to include the name of any member will not affect the validity of the notice of deficiency as to the other members); any notice and demand for payment *[will]* **may** name each corporation which was a member of the affiliated group during any part of the period (but a failure to include the name of any member will not effect the validity of the notice and demand as to the other members); and any other proceeding to collect the amount of any assessment, after the assessment has been made, *[will]* **may** name the corporation from which the collection is to be made. The provisions of this section shall apply whether or not a Missouri consolidated return is made for any subsequent year and whether or not one (1) or more subsidiaries have become or have ceased to be *[come]* members of the affiliated group at any time. Notwithstanding the provisions of this section, the director *[of revenue]*, upon notifying the common parent, may deal directly with any subsidiary member of the affiliated group with respect to its liability, in which event that member shall have full authority to act for itself.

[(30)] **(23)** Notification of Deficiency to Corporation Which Has Ceased to be a Member of an Affiliated Group. If a subsidiary has ceased to be a member of an affiliated group and if the subsidiary files written notice of the cessation with the director *[of revenue]*, then the director *[of revenue]*, upon written request of that subsidiary, will furnish it with a copy of any notice of deficiency with respect to the tax for a Missouri consolidated return year for which it was a member and a copy of any notice and demand for payment of the deficiency. The filing of the written notification and request by a subsidiary corporation shall not limit the scope of the agency of the common parent provided in section *[(29)]***(22)** of this rule. Failure by the director *[of revenue]* to comply with the written request shall not limit the liability of the corporation provided in section *[(29)]***(22)** of this rule.

[(31)] **(24)** Effect of Dissolution of Common Parent. If a common parent contemplates dissolution, or is about to be dissolved, or if for any other reason its existence is about to terminate, it shall notify the director *[of revenue]* of that fact and designate, subject to the approval of the director *[of revenue]*, another member of the affiliated group to act as agent in its place to the same extent and subject to the same conditions and limitations as are applicable to the common parent **(including as authorized representative pursuant to section 32.057, RSMo), notwithstanding any provision of this rule to the contrary.** If the notice thus required is not given by the common parent, or the designation is not approved by the director *[of revenue]*, the remaining members of the affiliated group, subject to the approval of the director *[of revenue]*, may designate another member of the group to act as the agent **in place of the common parent (including as authorized representative pursuant to section 32.057, RSMo), notwithstanding any provision of this rule to the contrary,** and notice of that designation shall be given to the director *[of revenue]*. Until a notice in writing designating a new agent has been approved by the director *[of revenue]*, any notice of deficiency or other communication mailed to the common parent shall be considered as having been properly mailed to the agent **and authorized representative (for purposes of section 32.057, RSMo)** of the affiliated group; or if the director *[of revenue]* has reason to believe that the existence of the common parent has terminated, if s/he deems it advisable, s/he may deal directly with any member of the affiliated group with respect to its Missouri consolidated tax liability, **and such member shall be deemed an authorized representative of each and all members of the affiliated group for purposes of section 32.057, RSMo.**

[(32)] **(25)** Automatic Termination of Right to File Missouri Consolidated Return. The right of an affiliated group to file a Missouri consolidated return for the taxable year shall be dependent upon that group filing a federal consolidated return for the same year. Upon the discontinuance of the filing of a federal consolidated return, the filing of a Missouri consolidated return shall similarly be discontinued.

[(33)] **(26)** Permission to Discontinue Filing Missouri Consolidated Return—Substantial Change in Law or Regulation. Upon timely written *[application]* **notice** to the director *[of revenue]*, an affiliated group may discontinue the filing of a Missouri consolidated return for the taxable year (or may withdraw a Missouri consolidated return previously filed for the taxable year) if the net result of all amendments to applicable law and the corresponding rules with effective dates commencing within the taxable year has a substantial adverse effect on the Missouri consolidated tax liability of the affiliated group for that year relative to what the aggregate Missouri tax liability would be if the members of the affiliated group filed separate Missouri returns for the year.

(A) *Prima Facie* Substantial Change. The difference between the Missouri consolidated tax liability, taking into account the changes in the law or regulations effective for the year and the aggregate Missouri tax liability of the members of the affiliated group computed as if each member filed a separate Missouri return for the year, also taking into account the changes in the law or regulations effective for the year (postlaw difference) shall be compared with the difference between the Missouri consolidated tax liability of the affiliated group for the taxable year, without regard to the changes in the law or regulations, and the aggregate Missouri tax liability of the members of the affiliated group computed as if separate Missouri returns had been filed by the members for the year, also without regard to the changes in the law or regulations (prelaw difference). If the postlaw difference is one hundred fifteen percent (115%) greater than the prelaw difference and that difference is at least *[five thousand dollars (\$5,000)]* **thirty thousand dollars (\$30,000)**, a substantial adverse change shall be deemed to have occurred.

(B) Timely *[Application]* **Notice**. Any *[application]* **notice** to discontinue the filing of Missouri consolidated returns on account of section [(33)] **(26)** shall be made in writing to the director *[of revenue]* on or before the later of—

1. **Ninety (90) days before** *[T]*the due date (including extensions of time) for the filing of the Missouri consolidated return for the taxable year; or

2. *[Ninety (90)]* **One hundred and eighty (180)** days after the effective date of the *[Missouri]* law or *[Missouri Department of Revenue]* regulation on account of which a substantial change is alleged to have occurred.

(C) **In the event that a *prima facie* substantial change does not exist and the director determines that a substantial change in law or regulation adversely changing the Missouri consolidated tax liability has not occurred, the director may treat an attempt by the affiliated group to file on a non-consolidated basis as the affiliated group having engaged in improper separate return filing consistent with section (12) of this rule. Affiliated groups are strongly encouraged to obtain a binding letter ruling pursuant to 12 CSR 10-1.020 prior to any**

attempt to discontinue the filing of Missouri consolidated returns on account of a substantial change in law or regulation adversely changing income tax liability.

[(34)] **(27)** Permission to Discontinue Filing Missouri Consolidated Returns For Good Cause. Upon the timely written application by the affiliated group and upon showing of good cause for the action, the director *[of revenue]* may permit the affiliated group to discontinue the filing of Missouri consolidated returns *[upon the terms and conditions as s/he may prescribe]*. Any application for permission to discontinue the filing of Missouri consolidated return on account of section [(34)] **(27)** shall be made to the director *[of revenue on or]* **no later than the 90th day** before the due date (including extensions of time) for the filing of the Missouri consolidated return for the year. **A relief extension of the due date to apply for permission to discontinue the filing of Missouri consolidated return may be granted even after such due date has passed, subject to the same procedure, conditions, and requirements as the relief extension discussed in section (9) of this rule.**

[(35)] **(28)** Revocation of Right to File Missouri Consolidated Return. The director *[of revenue]*, upon finding that the filing of Missouri consolidated returns by the affiliated group does not clearly reflect the Missouri taxable income derived from sources within Missouri and for the purpose of preventing avoidance of Missouri tax liability may terminate the right of an affiliated group to file a Missouri consolidated return for that year or, in the alternative, may distribute, apportion, or allocate items of income, deductions, credits, or allowances between or among the members of the affiliated group so that the portion of the Missouri consolidated taxable income (all sources) as is derived from sources within Missouri is clearly reflected. The procedure outlined in sections 143.611–143.691, RSMo, inclusive, shall be applicable to actions of the director *[of revenue]* under this section.

[(36)] **(29)** Estimated Tax on Consolidated Basis. Beginning with its third Missouri consolidated return year, an affiliated group shall file its declaration of estimated tax on a consolidated basis for that year and for each subsequent Missouri consolidated return year. The group shall be treated as a single corporation for purposes of sections *[143.531 and]* **143.521 through** 143.541, RSMo (relating to the declaration and payment of estimated tax). If separate Missouri returns are filed by the members for a taxable year, the amount of any estimated tax payments made with respect to a Missouri consolidated declaration of estimated tax for that year shall be credited against the separate Missouri tax liabilities of the members in any manner designated by the common parent which is satisfactory to the director *[of revenue]*. The consolidated declaration of estimated tax shall be filed and payment shall be made by the common parent.

[(37)] **(30)** Estimated Tax on Separate Basis. For each taxable year preceding the third Missouri consolidated return year, *[each member of the affiliated group shall be treated as a separate corporation for the purposes of sections 143.531 and 143.541, RSMo]* **declarations of estimated tax may be filed and payments of estimated tax may be made on either a consolidated or separate member basis.** For the first two (2) Missouri consolidated return years, the amount of any estimated tax payments made for the year by the members of the affiliated group shall be credited against the Missouri consolidated tax liability of the affiliated group for that year. *[A statement shall be attached to the declaration setting forth the name, address, and federal employer*

identification number of each member of the affiliated group as well as the amount of declaration of estimated tax payments by each member together with the date of each payment.]

[(38)] **(31)** Additions to Tax For Failure to Pay Estimated Tax on Consolidated Basis. If the affiliated group is required to file a Missouri consolidated declaration of estimated tax under section [(36)] **(29)** of this rule **for a taxable year**, then, if the group—

(A) Files a Missouri consolidated return for *[the]* **that** taxable year *[with the term]* **the** “tax shown on the return”, **as that phrase is used** for the purposes of section 143.761.4(1), RSMo, *[the tax]* shall be **the tax** shown on the Missouri consolidated return for the preceding taxable year, and the term “facts shown on *[the]* **his** return,” for purposes of section 143.761.4(4), RSMo, **shall mean** the facts *[shall be]* shown on the Missouri consolidated return for the preceding taxable year; or

(B) Does not file a Missouri consolidated return for the taxable year, *[:]* the term “amount, if any, of the installment paid,” *[by any member.]* for *[the]* purposes of section 143.761.2(2), RSMo, *[an amount shall be]* **shall mean, with respect to a member, the amount** *[apportioned]* **allocated** to that member in a manner designated by the common parent which is satisfactory to the director *[of revenue]*. For *[the]* purposes of section 143.761.4(1), RSMo, the “tax shown on the return” for any member shall be the portion of the tax shown on the Missouri consolidated return for the preceding **taxable** year allocated to that member in a manner designated by the common parent which is satisfactory to the director *[of revenue]*. For purposes of section 143.761.4(4), RSMo, the “facts shown on *[the]* **his** return” shall be the facts shown on the Missouri consolidated return for the preceding **taxable** year and the tax computed *[under that section]* **pursuant to section 143.761.4(4), RSMo**, shall be allocated to the members in a manner designated by the common parent and satisfactory to the director *[of revenue]*.

[(39)] **(32)** Additions to Tax For Failure to Pay Estimated Tax on Separate Basis. If the members of an affiliated group are treated as separate corporations for the taxable year under section [(37)] **(30)** of this rule and the affiliated group files a Missouri consolidated return for the year, then, for the purposes of section 143.761.2(1), RSMo, the “tax shown on the return **for the taxable year**” for any member shall be the portion of the tax shown on the Missouri consolidated return allocable to that member in a manner designated by the common parent and satisfactory to the director *[of revenue]*.

(33) Nothing in this rule shall be interpreted or construed as incorporating by reference any rule, regulation, standard, or guideline of a federal agency, with the exception of Treasury Regulation section 301.9100-3, as found in Title 26, Section 301.9100-3 of the Code of Federal Regulations (last amended May 6, 2024), which is hereby incorporated by reference (only for the limited purposes specified below), as published by the United States Government Publishing Office, 732 N. Capitol Street NW, Washington, DC 20401-0001, phone: toll-free (866) 512-1800, DC area (202) 521-1800, website: bookstore.gpo.gov. The incorporation by reference of Treasury Regulation section 301.9100-3 applies only to the relief extensions expressly specified in sections (9) and (27) of this rule. Nothing in this rule shall be understood to create or authorize a relief extension other than those expressly specified, using the exact phrase “relief extension,” in this rule. This rule does not incorporate any subsequent amendment or additions to Treasury Regulation section 301.9100-3.

AUTHORITY: sections **32.057 and 143.961, RSMo 2016**, 143.431[.3(5)], RSMo Supp. [2009] **2025**. * Regulation 1.431-3 was first filed July 21, 1975, effective July 31, 1975. Amended: Filed Oct. 16, 2002, effective June 30, 2003. Amended: Filed Dec. 1, 2009, effective June 30, 2010. Amended: Filed October 27, 2025.

*Original authority: 143.431, RSMo 1972, amended 2004, 2007.

Public Cost: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

Private Cost: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legislative Office, 301 West High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*