This Week in State Tax (TWIST)

August 31, 2026

Illinois: Department denies alternative apportionment approach to GILTI; hints at what is required

The Illinois Department of Revenue recently issued a General Information Letter (GIL) addressing a taxpayer’s petition to use alternative apportionment for Illinois corporate income tax purposes in connection with Global Intangible Low Taxed Income (GILTI). Recall, for taxable years ending on or after December 31, 2025, the Illinois dividends received deduction for GILTI was limited to 50 percent of the amount of GILTI. The single-sales-factor apportionment regulations promulgated by the Department exclude dividends, Section 78 amounts, and Subpart F income from the sales factor, and Illinois Form 1120 specifically excludes GILTI from the sales factor. The taxpayer submitted a petition for alternative apportionment arguing that including a portion of GILTI in the Illinois tax base without a corresponding sales factor inclusion distorted the net income apportioned to Illinois and requested permission to include 50 percent of the GILTI in the sales factor denominator.

Under Illinois law, a taxpayer may depart from the statutory apportionment rules only if those rules do not fairly represent the market for the taxpayer’s goods, services, or other sources of business income, and the taxpayer bears the burden of proof to demonstrate any distortion. Regulations provide that a taxpayer seeking alternative apportionment must present clear and convincing evidence that the statutory formula produces a distorted result, such as taxing extraterritorial values or attributing income to Illinois out of proportion to the taxpayer’s Illinois market. The taxpayer must also show that its proposed method would more fairly apportion income to Illinois based on that market. In the GIL denying the taxpayer’s alternative apportionment petition, the Department observed that the petition asserted that the statutory method produced a grossly distorted result, without explaining in detail how the statutory formula applied to the taxpayer, providing information about the market for the taxpayer’s goods and services, demonstrating that the statutory formula failed to fairly represent the extent of that market, or showing that the proposed method would produce a reasonable result. The Department therefore declined to approve the request as submitted, but it did invite the taxpayer to supplement the petition with additional information.

Please contact Brad Wilhelmson and Gianluca Pitetti with questions about General Information Letter IT 26-0008-GIL, Illinois Department of Revenue (July 28, 2026).

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