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Issues on Pro Forma Returns for Combined Reporting

Context: Rhode Island most recently passed legislation requiring certain corporations to file pro forma combined reports for two years. The legislation was followed by regulations to guide taxpayers. They later adopted combined reporting. Maryland had previously required pro forma returns, but has yet to adopt combined reporting.

Reasons for pro forma returns: provide approximate revenue estimates; familiarize lawmakers with combined reporting and the issues that would need to be decided in such a move.

Issue	Rhode Island Pro Forma	Legislative Considerations
Who must file pro forma returns?	Corporations with unitary affiliates	Legislature could include partnerships in unitary group
What types of entities are included or excluded?	Included: C corps Excluded: S corps, partnerships, insurance, banks	Legislature could potentially expand the list
Sales factor and nexus in combined report	RI required both: Joyce (only sales from firms with nexus in state) Finnigan (sales from any member of combined group)	MTC uses Joyce method in model statute.
Sharing NOLs and Credits	RI pro forma returns allowed new NOLs (not prior ones) to be shared within the group. Similar treatment for credits. Final RI legislation similar.	MTC (consistent with its use of Joyce) does not allow sharing of NOLs or credits.
International Issues	Legislation for pro forma return excluded foreign companies with 80% of factors overseas and income covered by a federal tax treaty (except tax havens). RI asked for worldwide sales and combined income as well.	Legislature would decide what the water's edge election would look like and how to handle overseas "tax havens." States differ on treatment of tax havens but generally include some of this income in combined reports.
Consolidated Return "shortcut"	RI allowed firms to use federal consolidated returns rather than a true unitary group but only for the purposes of this study. This could be over or under inclusive.	Most states that have combined reporting require use of a unitary group.

FAS 109 deduction for increase in "net deferred tax liability" stemming from moving to combined reporting	Rhode Island did not allow a FAS deduction for the report, but did ask firms for information. This proved confusing for many taxpayers. RI did not adopt the deduction.	Recent adopters have varied on this practice. It was designed to minimize potential impact on stock prices from changes in financial reporting.

General Rhode Island Information on Combined Returns:
http://www.tax.ri.gov/Tax%20Website/TAX/combinedreporting/

Regulations for Rhode Island pro forma returns:
http://www.tax.ri.gov/Tax%20Website/TAX/combinedreporting/Combined%20Reporting%20pro%20forma%20Reg.pdf