

## FORM 44

### LINE 3 TAX FROM RECAPTURE OF SMALL EMPLOYER INVESTMENT TAX CREDIT

If you have claimed a small employer investment tax credit on property that ceases to qualify before the end of the five-year recapture period, you must compute the small employer investment tax credit recapture. This includes property moved outside of Idaho.

You must also compute recapture if you failed to meet the incentive criteria required to qualify for this credit at the project site during the project period.

Enter the amount from Form 83R, Part III, line 15. Include Form 83R.

### LINE 4 TAX FROM RECAPTURE OF SMALL EMPLOYER REAL PROPERTY IMPROVEMENT TAX CREDIT

If you have claimed a small employer real property improvement tax credit on property that ceases to qualify before the end of the five-year recapture period, you must compute the small employer real property improvement tax credit recapture.

You must also compute recapture if you failed to meet the tax incentive criteria required to qualify for this credit at the project site during the project period.

Enter the amount from Form 84R, Part III, line 15. Include Form 84R.

### LINE 5 TAX FROM RECAPTURE OF SMALL EMPLOYER NEW JOBS TAX CREDIT

If you have claimed a small employer new jobs tax credit and you failed to maintain the required level of new employees for the entire five-year recapture period, you must compute the small employer new jobs tax credit recapture.

You must also compute recapture if you failed to meet the tax incentive criteria required to qualify for this credit at the project site during the project period.

Enter the amount from Form 85R, line 13. Include Form 85R.

### LINE 6 TAX FROM RECAPTURE OF BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT

If you have claimed a biofuel infrastructure investment tax credit on property that ceases to qualify before the end of the five-year recapture period, you must compute biofuel infrastructure investment tax credit recapture. This includes property no longer used to sell biofuel in Idaho.

Enter the amount from Form 71R, Part III, line 15. Include Form 71R.

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## INSTRUCTIONS FOR FORM 42

### IDAHO APPORTIONMENT AND COMBINED REPORTING ADJUSTMENTS

Part I of this form provides the computation of the Idaho apportionment factor and is to be used by taxpayers who have income from business activity that is taxable in Idaho and another state or country.

If the taxpayer is a partner in a partnership or a shareholder in an S corporation, the taxpayer must take into account the activity of the pass-through entity in determining whether the taxpayer has income from business activity that is taxable in Idaho and another state or country. Include the taxpayer's share of the pass-through entity's property, payroll, and sales numbers from Form ID K-1 in the amounts reported on Form 42.

Part II of this form provides the worldwide and water's edge adjustments to compute combined income. Part II must be used by a corporation that has ownership in at least one foreign affiliate.

### PART I APPORTIONMENT FORMULA

#### GENERAL INFORMATION

If the taxpayer transacts business in Idaho and another state or country, include a schedule showing apportionment detail by company.

#### CORPORATIONS

When a unitary group files using the combined reporting method, each corporation included in the combined group must compute its own apportionment factors. It does this by including its total Idaho property, sales, and payroll in the numerators and using the property, sales, and payroll of all the corporations included in the combined report in the denominators. Form 42 is used to show the total for the unitary group. A schedule must be included detailing the Idaho apportionment factor computation for each corporation in the group.

**Worldwide Filers:** For multinational unitary groups using the worldwide filing method, the denominators include the total property, sales, and payroll of all domestic and foreign corporations included in the unitary group.

**Water's Edge Filers:** For multinational unitary groups using the water's edge filing method, the denominators include only the total property, sales, and payroll of the water's edge combined group. These would exclude the property, sales, and payroll of foreign subsidiaries whose income isn't included in the computation of apportionable income. To the extent dividends are included in apportionable income, they are included in the sales factor denominator.

All intercompany amounts should be excluded from the computation of the apportionment factors.

#### PROPERTY FACTOR

The property factor is a fraction. The numerator is the average value of real and tangible personal property owned or rented and used in Idaho during the tax year to produce business income. The denominator is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax year to produce business income. Property used in the production of nonbusiness income is excluded from the factor.

Property is included in the factor if it is actually used or capable of being used during the tax year in the regular course of the trade or business of the taxpayer. Property under construction is excluded.

Property owned by the taxpayer is valued at its original cost. Original cost is the basis of the property for federal income tax purposes (prior to any federal adjustments) when it was acquired by the corporation and adjusted for subsequent capital additions or improvements, special deductions or partial disposition because of sale, exchange, abandonment, etc. Depreciation doesn't reduce original cost.

The average value of property owned by the taxpayer is computed by averaging the values at the beginning and ending of the tax year. The Tax Commission may require or allow the averaging of monthly values to properly reflect the average values.

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Property rented is valued at eight times the net annual rental rate. The net annual rental rate for any item of rented property is the total rents paid for the property, less the aggregate annual subrental rates paid by subtenants. Subrents aren't deducted when the subrents are business income.

### SALES FACTOR

The sales factor is double weighted for all taxpayers except electrical and telephone utilities. Electrical and telephone utilities use a single-weighted sales factor.

The sales factor is a fraction. The numerator is the gross receipts derived during the tax year from transactions and activities attributable to Idaho in the regular course of the taxpayer's trade or business. The denominator is the total gross receipts derived during the tax year from transactions and activities everywhere in the regular course of the corporation's trade or business. Receipts derived from the production of nonbusiness income are excluded from the sales factor.

Sales includes all gross receipts derived from transactions and activities in the regular course of trade or business. Gross receipts means gross sales, less returns and allowances. Gross receipts from sales of tangible personal property are assigned to Idaho if:

- Property is delivered or shipped to a purchaser in Idaho regardless of F.O.B. point or other conditions of sales
- Property is shipped from an office, store, warehouse, factory, or other place of storage in Idaho and the taxpayer isn't taxable in the state of the purchaser (throwback sales) or the purchaser is the U.S. Government

Sales also includes gross receipts from services and all other gross receipts such as interest, dividends, rents, royalties, gross receipts from the sale of property, and other income derived by the taxpayer in the regular course of business. If gross receipts don't fairly represent the extent of your business activity in Idaho, you may petition, or may be required, to use another method to obtain an equitable result. Income from services is attributable to this state to the extent that the services are performed in Idaho.

Although the following amounts may be business income, gross receipts don't include such items as the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund or certificate of deposit or similar marketable instrument, the principal amount received under a repurchase agreement, the proceeds from issuing your own stock or from the sale of treasury stock, damages or other amounts received from litigation, property acquired by an agent on behalf of another, tax refunds or other tax benefit recoveries, pension reversions, contributions to capital, income from the forgiveness of indebtedness, and amounts realized from exchanges of inventory that aren't recognized by the IRC.

### PAYROLL FACTOR

The payroll factor is a fraction. The numerator is the compensation paid in Idaho during the tax year to produce business income. The denominator is the total compensation paid during the tax year to produce business income. Compensation connected with the production of nonbusiness income is excluded from the payroll factor.

The total amount paid to employees is determined on the basis of the taxpayer's accounting method. Under the accrual method, all compensation properly accrued is deemed to have been paid. If you are required to report compensation under the cash method for unemployment compensation purposes, you may use the cash method to include compensation paid to employees in the payroll factor.

Compensation means wages, salaries, commissions, and any other form of payment to employees for personal services.

Payments made to an independent contractor, or any other person not properly classifiable as an employee, are excluded.

Compensation is paid in Idaho if any one of the following tests are met:

- The individual's service is performed entirely within Idaho.
- The individual's service is performed both in and outside Idaho but the service performed outside Idaho is incidental to the individual's service in Idaho.
- Some of the service is performed in Idaho and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in Idaho.
- Some of the service is performed in Idaho and the base of operations, or the place from which the service is directed or controlled, isn't in any state in which some part of the service is performed, but the individual's residence is in Idaho.

### MODIFIED FACTORS FOR CERTAIN INDUSTRIES

Idaho has adopted the Multistate Tax Commission (MTC) regulations for the following special industries. Examples of the computations of these factors are found in the applicable MTC regulations on the Internet. You can find them under Laws and Rules at [tax.idaho.gov](http://tax.idaho.gov).

#### Airlines

If you are in the business of transporting passengers, freight or mail by air, your apportionment factor should reflect the movement of your transportation equipment and personnel. Include transportation revenue, property ready for flight, and transportation payroll in the Idaho numerators based on the percentage of Idaho departures of aircraft weighted as to the value of aircraft by type to the total departures similarly weighted.

The value of nonflight property and nonflight payroll will be allocated to the state based on the general apportionment rules.

#### Railroads and Trucking Companies

If you are in the business of transporting passengers, freight, or mail by motor carrier or rail, your apportionment factor should reflect the movement of your transportation equipment and personnel. Include the transportation revenue, property, and payroll in the Idaho numerators based on the percentage of miles traveled in Idaho to miles traveled everywhere.

Other revenue, fixed property, and compensation of employees assigned to fixed locations are included in the factors based on the general apportionment rules. Per diem and mileage charges paid or received for the temporary use of railroad cars shouldn't be included in the sales or property factors.

#### Construction Contractors

You must use the same long-term contract accounting method for Idaho reporting purposes that you used for federal reporting purposes. If the percentage of completion method is used, the following special rules apply in addition to the general property, payroll, and sales factor rules.

The property factor denominator includes the average value of the taxpayer's cost of construction in progress (including materials and labor) to the extent the costs exceed progress billings. The portion of this amount attributable to construction projects in Idaho is included in the Idaho numerator. If progress billings exceed construction costs, don't include any value in the property factors for the taxpayer's equity in the project.

The sales factor includes only the portion of the gross contract price which corresponds to the percentage of the entire contract which was completed at the end of the tax year. For example, if the project was 30% complete at the end of the tax year, 30% of the bid price should be included in the gross receipts. Gross receipts from a construction project are attributable to Idaho if the construction is located in Idaho. Gross receipts from a

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construction project located partially in Idaho are included in the numerator based on ratio of construction costs for the project in Idaho for the tax year to the total of construction costs for that project for the tax year.

Compensation paid for work on a particular construction project is included in the payroll factor even though capitalized into the cost of construction. Compensation is attributable to the state where most of the employee's service is performed, regardless of where reported for unemployment tax purposes.

### **Publishers**

If you are in the business of publishing, selling, licensing or distributing books, newspapers, magazines, periodicals, trade journals or other printed material, include outer-jurisdictional property in the property factor whether owned or rented if used in your business. Outer-jurisdictional property includes such items as orbiting satellites and undersea transmission cables that aren't physically located in any particular state. The portion of outer-jurisdictional property attributable to Idaho is computed using the ratio of Idaho usage to usage everywhere.

The sales numerator includes gross receipts from the sale of printed materials delivered or shipped to a purchaser or subscriber in Idaho. Gross receipts from the advertising and the sale, rental or other use of customer lists are included as Idaho sales as determined by a circulation factor.

If the purchaser or subscriber is the U.S. Government or you aren't taxable in the state, the gross receipts are attributable to Idaho if the printed material or other property is shipped from a business location in Idaho.

### **Broadcasters**

If you are in the business of conducting television or radio broadcasts, either through a network or through an affiliated, unaffiliated or independent television or radio broadcasting station, your apportionment factor should exclude outer-jurisdictional, film and radio programming property. Outer-jurisdictional property includes orbiting satellites and undersea transmission cables that aren't physically located in any particular state. Film programming means performances, events, or productions telecast, live or otherwise, on television. It includes news and sporting events in the format of a motion picture, a video tape, or other medium. Radio programming means all performances, events, or productions broadcast live or otherwise on radio. It includes commercial, educational or artistic works, in the format of an audio tape, disc or other medium.

Audio or video cassettes, discs or similar medium containing film or radio programming that is intended for sale or rental for home viewing or listening is included in the property factor at original cost.

The value of property located or used in Idaho for part of the tax year is included in the Idaho property numerator based on the ratio that the number of days the property is located or used in Idaho bears to the total number of days you owned or rented the property during the tax year.

Idaho sales include advertising revenue from live television, film or radio programming in release to or by television and radio stations located in Idaho and receipts from live telecasts, films and radio programs based on the audience factor.

The payroll factor includes residual and profit participation payments paid to employees, directors, actors, newscasters, and other individuals in a role of employee. Include amounts paid to an individual, corporation, or other business entity for providing the services of directors, actors, newscasters, and other talent for a live television broadcast, film or radio program if the payments were at least 25% of total compensation paid

to employees and the extent of your business activity in Idaho wouldn't be fairly represented by not including the amounts. The portion of these amounts attributable to Idaho is determined according to the general apportionment rules.

### **Financial Institutions**

The apportionment factor of a financial institution should reflect the business of extending credit through loans and credit cards by including the value of these intangibles in the property factor.

A financial institution is a business that predominantly deals in money or moneyed capital in substantial competition with the business of national banks. Predominantly means more than 50% of gross income is attributable to dealings in money or moneyed capital. Money or moneyed capital includes coin, cash, currency, mortgages, deeds of trust, conditional sales contracts, loans, commercial paper, installment notes, credit cards, and accounts receivable.

A business is presumed to be a financial institution if it is one of the following:

- A corporation registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended
- A national bank organized under the National Bank Act
- A savings association or federal savings bank as defined in the Federal Deposit Insurance Act
- A bank or thrift institution incorporated or organized under the laws of any state
- A corporation organized under the provisions of Title 12 U.S.C. §§ 611 to 631
- An agency or branch of a foreign depository as defined in Title 12 U.S.C. § 3101
- A corporation whose voting stock is more than 50% owned by an entity presumed to be a financial institution (insurance companies excluded)
- A corporation that in the current year and immediately preceding two years, derived more than 50% of its total gross income for financial accounting purposes from finance leases

In addition to the property included under the standard property factor as discussed on page 18, the property factor must also include the average value of loans and credit card receivables. Loans and credit card receivables are valued at their average outstanding principal balance, without regard to any reserve for bad debts.

Loans and credit card receivables are considered located in Idaho if they are properly assigned to a regular place of business in this state; that is, if the loan has a preponderance of substantive contacts with that place of business. Substantive contacts include solicitation, investigation, negotiation, approval, and administration.

There are also special sales factor rules for attributing receipts to a state. The payroll factor is computed the same as under the standard apportionment rules. See page 19.

## **SPECIFIC INSTRUCTIONS**

Instructions are for lines not fully explained on the form. Compute all percentages to four places to the right of the decimal point (00.0000%). Include a schedule showing apportionment detail by company if filing for a unitary group.

### **PROPERTY**

**Lines 1 through 4.** Enter the beginning and end of the year total property and Idaho property amounts.

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**Line 9.** Divide Idaho property by total property (amounts on line 8).

## SALES

**Lines 11 and 12.** Enter the amounts from line 10 that were delivered or shipped to Idaho purchasers (line 11) or that were throwback sales to Idaho (line 12). A sale made in a state that has no jurisdiction to tax the seller is a throwback sale.

**Line 14.** Include a detailed schedule.

**Line 16.** Divide Idaho gross receipts by total gross receipts (amounts on line 15).

Electrical and telephone utilities. This is your single-weighted sales factor. Go to line 18.

**Line 17.** For all taxpayers other than electrical and telephone utilities, multiply the amount on line 16 by 2. This is your double-weighted sales factor.

## PAYROLL

**Line 19.** Divide Idaho wages and salaries by total wages and salaries (amounts on line 18).

## TOTAL PERCENTAGE

**Line 20.** For all taxpayers other than electrical and telephone utilities, add the percentages on lines 9, 17, and 19. For electrical and telephone utilities, add the percentages on lines 9, 16, and 19.

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**Line 21.** For all taxpayers other than electrical and telephone utilities, divide the total on line 20 by 4. For electrical and telephone utilities, divide the total on line 20 by 3.

If any of the factors don't apply to your business, divide the total on line 20 by the number of factors used. For example, if your business has no employees anywhere, your factor is reduced by one.

## PART II COMBINED REPORTING ADJUSTMENTS

### GENERAL INFORMATION

The worldwide filing method is required for all corporations unless the water's edge election has been made. The water's edge election must be made by filing Form 14, Idaho Water's Edge Election and Consent Form, with the original tax return filed by the corporation for the tax year. The election can't be made on an amended return. Permission must be requested from the Tax Commission to change from the water's edge method to the worldwide method.

### SPECIFIC INSTRUCTIONS

To the extent that amounts listed for water's edge filers are different than the amounts listed for worldwide filers, separate instructions are listed.

### ADDITIONS

#### LINE 1 INCOME FROM UNITARY FOREIGN SUBSIDIARIES

**Water's Edge Filers.** If you are a water's edge filer, disregard this line and go to line 2.

**Worldwide Filers.** The income of a foreign affiliate included in a consolidated federal return is included on line 11, Form 41.

If foreign affiliates aren't included in a consolidated federal return, the corporation can select one of the following options. The option selected must be used for all foreign affiliates not included in a consolidated federal return and must be adjusted for the Idaho additions and subtractions listed on Form 41.

**Option 1.** Enter the net income before income taxes stated on each affiliate's profit and loss statement prepared for the United States Securities and Exchange Commission (SEC). If the profit and loss statement isn't filed with the SEC, enter the net income or loss before income taxes reported on the profit and loss statement prepared for reporting to shareholders that is subject to review by an independent auditor.

**Option 2.** The net income or loss reported on the profit and loss statements may be adjusted to tax accounting standards as would be required by the IRC if the corporation were incorporated in the United States. If a corporation chooses to make the book to tax adjustments, all book to tax adjustments must be made for all unitary foreign corporations not included in the consolidated federal return. The book to tax adjustments must be consistently applied each year the group files a worldwide return.

Include a schedule of the foreign affiliate income by corporation. Also include schedules of the book to tax adjustments, if any.

#### LINE 2 FEDERAL TAXABLE INCOME OF NONCONSOLIDATED UNITARY SUBSIDIARIES

Enter the federal taxable income of unitary subsidiaries incorporated in the United States that are more than 50% commonly owned and that weren't included in the federal consolidated return. This is the amount reported on the subsidiary's federal income tax return, Form 1120, adjusted for the Idaho additions and subtractions listed on Form 41. Include a schedule identifying this income by corporation.

#### LINE 3 INCOME OF FOREIGN CORPORATIONS SUBJECT TO FEDERAL TAXATION

**Water's Edge Filers.** Enter the federal taxable income reported by corporations incorporated outside the United States that are required to file a federal income tax return. This includes foreign corporations filing a federal Form 1120F.

**Worldwide Filers.** The income of foreign corporations is included on line 1.

Include a schedule identifying this income by corporation and also include copies of the federal income tax returns filed by each.

#### LINE 4 INTERCOMPANY ELIMINATIONS

Enter the amount of intercompany transactions between the combined group and nonunitary subsidiaries eliminated on the federal consolidated return. The income of the nonunitary subsidiaries is a subtraction on line 7. Include a schedule identifying the intercompany transactions by corporation.

#### LINE 5 OTHER ADDITIONS

Enter any miscellaneous Idaho additions. Include a schedule identifying each miscellaneous addition by corporation.

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## SUBTRACTIONS

### **LINE 7 FEDERAL TAXABLE INCOME OF NONUNITARY SUBSIDIARIES INCLUDED ON THE FEDERAL RETURN**

Enter the federal taxable income of nonunitary subsidiaries included in the federal consolidated return. Include a schedule identifying the income or loss by corporation.

### **LINE 8 DIVIDEND EXCLUSION**

The following dividend exclusions are applicable only to water's edge filers.

- a. Foreign Dividends. Enter the total amount of dividends paid by foreign affiliates. Include the amounts of income from controlled foreign corporations under subpart F if included in federal taxable income. Enter the income from possession corporations included in line 2. Don't include on this line any actual dividends paid by the possession corporations.
- b. Exclusion Percentage. If you elected to forgo filing the water's edge spreadsheets as indicated on line 8b, Form 41, enter 80%. Enter 85% if you are filing the water's edge domestic disclosure spreadsheets.

### **LINE 9 INTERCOMPANY DIVIDENDS INCLUDED ON THE COMBINED RETURN**

Enter the amount of dividends paid by one member to another member of the unitary group that haven't been subtracted elsewhere on this form or Form 41.

Include a schedule identifying payors, payees and dividend amounts regardless of the filing method.

### **LINE 10 INTERCOMPANY TRANSACTIONS INCLUDED ON THE FEDERAL RETURN**

Enter the intercompany transactions, between members of the combined group, that haven't otherwise been eliminated.

### **LINE 11 OTHER SUBTRACTIONS**

Enter any miscellaneous Idaho deductions. Include a schedule identifying each miscellaneous deduction by corporation.