

State of Rhode Island – Division of Taxation

Business Corporation Tax

Regulation CT 04-04

Allocation of Income and Net Worth

For the purposes of this regulation, the following definitions apply:

1. The term "arithmetical mean" shall mean the sum of the factors available to the taxpayer divided by the number of fractions used:

EXAMPLE: If there are three denominators and only two numerators in the three factors, the taxpayer would still be able to divide by three.

2. The term "gross receipts from sales" shall mean the gross amount of the sale of inventory sold in the ordinary course of business less any appropriate returns and allowances for such sales as recorded by the taxpayer for federal income tax purposes.

In the case of a taxpayer who qualifies to apportion (Regulation CT 88-01), its net income shall be apportioned to the state by means of an allocation fraction computed as a simple arithmetical mean of three fractions.

The first of these fractions shall represent that part held or owned within this state of the average net book value of the total tangible property (real estate and tangible personal property) held or owned by the taxpayer during the taxable year without deduction on account of any encumbrances thereon. Rented property shall be valued at eight times the annual net rental rate paid less annual sub-rentals received.

Inclusions in property factor:

1. Inventory
2. Depreciable Assets
3. Leasehold Improvements
4. Land
5. Construction in progress to the extent shown as a capital asset on the books of the taxpayer
6. Rental Property

The second of these fractions shall represent that part of the taxpayer's total receipts from sales or other sources during the taxable year which is attributable to the taxpayer's activities or transactions within this state during the taxable year, meaning and including within such part as being thus attributable receipts from:

- a. gross sales of its tangible personal property (inventory sold in the ordinary course of business) where shipments are made to points within this state;

- b. gross income from services performed within this state;
- c. gross income from rentals from property situated within the state;
- d. net income from the sale of real and personal property, other than inventory sold in the ordinary course of business as described in (a) above, or other capital assets located in the state;
- e. net income from the sale or other disposition of securities or financial obligations; and
- f. gross income from all other receipts within this state.

Inclusion in receipts factor:

- 1. Gross receipts defined above as gross receipts from sales.
- 2. Dividends less exclusions for Rhode Island purposes, such as dividends received from shares of stock of any payee liable for taxes as outlined in Chapters 11, 13 and 14 of the Rhode Island General Laws and dividends excluded for federal tax purposes
- 3. Interest less exclusions for Rhode Island purposes, such as interest on certain obligations of the U.S. and its possessions or interest on obligations of Rhode Island Public Service Corporations.
- 4. Rent.
- 5. Royalties.
- 6. Net capital gain as reported for federal tax purposes.
- 7. Net ordinary gain as reported for federal tax purposes.
- 8. Other income.
- 9. Income exempt for federal taxation but taxable for Rhode Island purposes, such as income from obligations from other states.

THE GROSS RECEIPTS FACTOR CANNOT BE LESS THAN 0%

The third fraction shall represent that part of the total wages, salaries and other compensation to officers, employees and agents paid or incurred by the taxpayer during the taxable year which is attributable to services performed in connection with the taxpayer's activities or transactions within this state during the taxable year.

MANUFACTURERS

In the case of manufacturers whose principal business is described in Sector 31, 32, or 33 of the North American Industry Classification System as adopted by the United States Office of Management and Budget and as revised from time to time, may, in lieu of apportioning its net income to this state based on the allocation fraction described in section 44-11-14(a), elect for any year to apportion its net income to this state on the following allocation fraction:

For the tax year beginning on or after January 1, 2004, but before January 1, 2005, thirty percent (30%) of the property factor, thirty percent (30%) of the payroll factor and forty percent (40%) of the receipts factor may be used.

For tax years beginning on or after January 1, 2005, twenty-five percent (25%) of the property factor, twenty-five percent (25%) of the payroll factor and fifty percent (50%) of the receipts factor may be used.

MOTOR CARRIERS

In the case of motor carriers, the following method is used to determine the numerator of each factor.

1. Property Factor:

Consists of the average net book value of situs assets plus a portion of the net book value of the line-haul vehicles. In determining the net book value of line-haul vehicles, compare Rhode Island pick up and delivery equipment to pick up and delivery equipment everywhere to arrive at a percentage due to Rhode Island for line-haul equipment.

For a motor carrier who does not have a Rhode Island facility, but who regularly picks up and delivers in Rhode Island, delivery equipment will be apportioned to Rhode Island upon its Rhode Island activities.

Rental property shall be valued at eight times the annual net rental paid less annual sub-rentals received.

2. Receipts Factor:

Average of the inbound/outbound Rhode Island receipts plus all other receipts attributable to Rhode Island.

3. Salaries and Wages Factor:

Consists of the situs wages plus a portion of the line-haul wages. Rhode Island line-haul wages are determined by the percentage of activity in Rhode Island.

For a motor carrier who does not have a Rhode Island facility, but who regularly picks up and delivers in Rhode Island, drivers' wages will be apportioned to Rhode Island based upon its Rhode Island activities.

AIRLINES

In the case of airlines, the following method is used to determine the numerator of each factor.

1. Property Factor:

Consists of the average net book value of situs assets plus a portion of the net book value of flight property. In determining the net book value of Rhode Island flight property, use the ratio of

departures of flight property from locations in Rhode Island to departures of flight property everywhere, multiplied by the net book value of flight property everywhere.

Rental property shall be valued at eight times the annual net rental paid less annual sub-rentals received.

2. Receipts Factor:

Passenger revenue shall be allocated to Rhode Island based on the ratio of passengers enplaned in Rhode Island to passengers enplaned everywhere. All other receipts attributable to Rhode Island shall also be included in the numerator.

3. Salaries and Wages Factor:

Consists of situs wages plus a portion of flight payroll. In determining Rhode Island flight payroll, use the ratio of departures of flight property from locations in Rhode Island to departures of flight property everywhere, multiplied by the total flight payroll.

SPECIALTY RECEIPTS

For those taxpayers whose Rhode Island receipts includes sums from the exercise of various legal rights such as patents, copyrights, royalties, franchises, licenses, etc. which are used, broadcast or copied (in any media) such receipts shall be included in the numerator of the gross receipts factor and the total of such receipts shall be included in the denominator. A patent is used in Rhode Island to the extent that it is employed in fabrication, manufacturing, production or other processing in Rhode Island or to the extent that a patented product is produced in Rhode Island.

A copyright is used in Rhode Island to the extent that printing or other publication originated therein.

Broadcast media is used in Rhode Island to the extent that the Rhode Island target audience is determinable as a part of the total audience. If the Rhode Island target audience is not determinable, then the entire receipts from the Rhode Island source are includible in the numerator of the gross receipts factor.

R. GARY CLARK
TAX ADMINISTRATOR

EFFECTIVE: January 1, 2004

THIS REGULATION AMENDS AND SUPERCEDES REGULATION CT 03-04 PROMULGATED
APRIL 1, 2003.