
••• **Reg. IV.18.(g). Special Rules: Trucking Companies.**
[Adopted July 11, 1986; amended July 27, 1989]

The following special rules are established with respect to trucking companies:

(1) In General. As used in this regulation, the term "trucking company" means a motor common carrier, a motor contract carrier, or an express carrier which primarily transports tangible personal property of others by motor vehicle for compensation. Where a trucking company has income from sources both within and without this state, the amount of business income from sources within this state shall be determined pursuant to this regulation. In such cases, the first step is to determine what portion of the trucking company's income constitutes "business" income and what portion constitutes "nonbusiness" income under Article IV.1 of the Multistate Tax Compact and Regulation IV.1 thereunder. Nonbusiness income is directly allocable to specific states pursuant to the provisions of Article IV.5 to .8, inclusive. Business income is apportioned among the states in which the business is conducted and pursuant to the property, payroll, and sales apportionment factors set forth in this regulation. The sum of (i) the items of nonbusiness income directly allocated to this state and (ii) the amount of business income attributable to this state constitutes the amount of the taxpayer's entire net income which is subject to tax in this state.

(2) Business and Nonbusiness Income. For definitions, rules, and examples for determining business and nonbusiness income, see Regulation IV.1.

(3) Apportionment of Business Income

(i) In General. The property factor shall be determined in accordance with Regulation IV.10 to .12, inclusive, the payroll factor in accordance with Regulation IV.13 to .14, and the sales factor in accordance with Regulation IV.15 to .17, inclusive, except as modified by this regulation.

(ii) The Property Factor

A. Property Valuation. Owned property shall be valued at its original cost and property rented from others shall be valued at eight (8) times the net annual rental rate in accordance with Article IV.11 and Regulation IV.11.

B. General Definitions. The following definitions are applicable to the numerator and denominator of the property factor, as well as other apportionment factor descriptions:

1. "Average value" of property means the amount determined by averaging the values at the beginning and end of the income tax year, but the [insert here the title of the appropriate administrative agency] may require the averaging of monthly values during the income year or such averaging as is necessary to reflect properly the average value of the trucking company's property. (See Article IV.12 and Regulation IV.12.)

2. "Mobile property" means all motor vehicles, including trailers, engaged directly in the movement of tangible personal property.

3. A "mobile property mile" is the movement of a unit of mobile property a distance of one mile whether loaded or unloaded.

4. "Original cost" is deemed to be the basis of the property for federal income tax purposes (prior to any federal income tax adjustments, except for subsequent capital additions, improvements thereto, or partial dispositions); or, if the property has no such basis, the valuation of such property for Interstate Commerce Commission purposes. If the original cost of property is unascertainable under the foregoing valuation standards, the property is included in the property factor at its fair market value as of the date of acquisition by the taxpayer. (Regulation IV.11.(a).)

5. "Property used during the course of the income year" includes property which is available for use in the taxpayer's trade or business during the income year.

6. The "value" of owned real and tangible personal property means its original cost. (See Article IV.11 and Regulation IV.11.(a).)

7. The "value" of rented real and tangible personal property means the product of eight (8) times the net annual rental rate. (See Article IV.11 and Regulation IV.11.(b).)

C. The Denominator and Numerator of the Property Factor. The denominator of the property factor shall be the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year. The numerator of the property factor shall be the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the income year. In the determination of the numerator of the property factor, all property, except mobile property as defined in this regulation, shall be included in the numerator of the property factor in accordance with Article IV.10 to .12, inclusive, and Regulation IV.10 to .12, inclusive.

Mobile property, as defined in this regulation, which is located solely within this state during the income year shall be included in the numerator of the property factor.

Mobile property as defined in this regulation, which is located within and without this state during the income year shall be included in the numerator of the property factor in the ratio which mobile property miles in the state bear to the total mobile property miles.

(iii) The Payroll Factor. The denominator of the payroll factor is the compensation paid everywhere by the taxpayer during the income year for the production of business income. (See Article IV.13 and .14 and Regulation IV.13 and .14.) The numerator of the payroll factor is the total compensation paid in this state during the income year by the taxpayer. With respect

to all personnel, except those performing services within and without this state, compensation paid to such employees shall be included in the numerator as provided in Article IV.13 and .14 and Regulation IV.13 and .14.

With respect to personnel performing services within and without this state, compensation paid to such employees shall be included in the numerator of the payroll factor in the ratio which their services performed in this state bear to their services performed everywhere based on mobile property miles.

(iv) The Sales (Revenue) Factor

A. In General. All revenue derived from transactions and activities in the regular course of the taxpayer's trade or business which produce business income shall be included in the denominator of the revenue factor. (See Article IV.1 and Regulation IV.1.)

The numerator of the revenue factor is the total revenue of the taxpayer in this state during the income year. The total state revenue of the taxpayer, other than revenue from hauling freight, mail, and express, shall be attributable to this state in accordance with Article IV.15 through .17 and Regulation IV.15 through .17.

B. Numerator of the Sales (Revenue) Factor From Freight, Mail, and Express. The total revenue of the taxpayer attributable to this state during the income year from hauling freight, mail, and express shall be:

1. Intrastate: All receipts from any shipment which both originates and terminates within this state; and,

2. Interstate: That portion of the receipts from movements or shipments passing through, into, or out of this state as determined by the ratio which the mobile property miles traveled by such movements or shipments in this state bear to the total mobile property miles traveled by movements or shipments from points of origin to destination.

(4) Records. The taxpayer shall maintain the records necessary to identify mobile property and to enumerate by state the mobile property miles traveled by such mobile property as those terms are used in this regulation. Such records are subject to review by [insert here the title of the appropriate administrative agency] or its agents.

(5) De Minimis Nexus Standard. Notwithstanding any provision contained herein, this Regulation IV.18.(g) shall not apply to require the apportionment of income to this state if the trucking company during the course of the income tax year neither:

- a. owns nor rents any real or personal property in this state, except mobile property; nor
- b. makes any pick-ups or deliveries within this state; nor

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c. travels more than twenty-five thousand mobile property miles within this state; provided that the total mobile property miles traveled within this state during the income tax year do not exceed three percent of the total mobile property miles traveled in all states by the trucking company during that period; nor

d. makes more than twelve trips into this state.