

Proposed Model Regulation Establishing Formula for Apportioning Income of Taxpayers with No or Minimal “Receipts”

Purpose: To recommend that the Commission reexamine the proposed model regulation to:

Not limit the application of the provision to taxpayers’ whose receipts, as defined by [Compact Article IV.1.g], are less than 3.33% of such taxpayers’ gross receipts, as defined by [Model Allocation and Apportionment Regulation IV.2.(a)(5)].

- Suggest modify (a) to include the following language *“or an entity that meets the definition of “Financial Institution” under Appendix A of the MTC’s Formula for the Apportionment and Allocation of Net Income of Financial Institutions (as adopted July 29, 2015.)”*
- *This relaxation of the language suggested above is needed in order to include certain receipts that were specifically excluded from the adopted language in Sections 1 and 17, e.g., receipts from hedging activities.*

Clarify treatment of receipts from Hedging Activities.

- Suggest modify (c)(5) as follows: The net amount, but not less than zero, of receipts not otherwise assigned under this subsection (c) arising from investment activities, including the holding, maturity, redemption, sale, exchange, or other disposition of marketable securities or cash are assigned to the sales factor numerator in this state if the receipts would be assigned to this state under Section (n) or (p) of the MTC’s Formula for the Apportionment and Allocation of the Net Income of Financial Institutions Model Statute (as adopted July 29, 2015) [or this state’s financial institutions receipts factor rules]; all other receipts from investment activities are assigned to the receipts factor numerator in this state if the investments are managed in this state. **For purposes of this subsection, “marketable securities” includes futures or forward contracts, options, notional principal contracts such as swaps and other derivative contracts and similar financial instruments regardless of whether such instruments result from hedging activities.**