

**Possible Alternatives to Current Regulation IV.18 on  
Use of Alternative Apportionment Formulas  
For Discussion Purposes Only**

**Current Model Regulation:**

Article IV.18 permits a departure from the allocation and apportionment provisions of Article IV only in limited and specific cases. Article IV.18 may be invoked only in specific cases where unusual factual situations (which ordinarily will be unique and non-recurring) produce incongruous results under the apportionment and allocation provisions contained in Article IV.

**Possible Amendment to Model Regulation:**

1. Article IV.18 permits a departure from the allocation and apportionment provisions of Article IV only in limited and specific cases. Article IV.18 may only be invoked to avoid incongruous results which would otherwise be reached under the apportionment and allocation provisions contained in Article IV.

2. Article IV.18 permits a departure from the allocation and apportionment provisions of Article IV only in limited and specific cases where unusual factual situations (which ordinarily will be unique and non-recurring) produce incongruous results or where application of the allocation and apportionment provisions in Article IV would not fairly represent the taxpayer's business activity within the state because of the nature of its business, operations or structure.

3. Article IV.18 permits a departure from the allocation and apportionment provisions of UDITPA where the extent of the taxpayer's business activity within the state would not be fairly represented under the allocation and apportionment provisions of Article IV because of the nature of the taxpayer's business, operations or structure.

*[The Oregon Supreme Court's test for invoking Section 18 authority as established in Twentieth Century-Fox Film Corporation v. Department of Revenue, 700 P.2d 1035, 1044 (1985), has received a degree of acceptance in many jurisdictions.]*

4. Article IV.18 permits a departure from the allocation and apportionment provisions of Article IV where the extent of the taxpayer's business activity within the state would not be fairly represented under the allocation and apportionment provisions of Article IV as a whole and the party seeking to vary the formula demonstrates that its alternative is reasonable. A formula is reasonable if it is internally and externally consistent and the formula would not foster a lack of uniformity among the states.