Proposed Amendment, MTC Reg. IV.17

b) Income Producing Activity: Defined. The term "income producing activity" applies to each separate item of income and means the transactions and activity ~~directly~~ engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Such activity ~~does not~~ includes transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an agent or independent contractor. Accordingly, income producing activity includes but is not limited to the following:

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(c) Costs of Performance: Defined. The term "costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the taxpayer. Costs paid by a taxpayer to an agent or independent contractor are included in the taxpayer's cost of performance. If the location of a cost of performance cannot be determined, or if a cost of performance occurs in a state in which the taxpayer does not have tax nexus, that cost of performance shall be disregarded.