

[REG. IV.18 [Section #](#)]

(a) This section applies to the determination of the receipts factor if:

- (1) ~~the~~The taxpayer's receipts, as defined by [Compact Article IV.1.g], are less than 3.33% of the taxpayer's gross receipts, as defined by [Model Allocation and Apportionment Regulation IV.2.(a)(5),], or
- (2) ~~the~~The [tax administrator] determines application of this section is necessary to fairly represent the extent of the taxpayer's business activity in the state.

(b) To be included in the receipts factor under this section, gross receipts must give rise to apportionable income. ~~and may be excluded if, as a category, they are de minimis in comparison to the taxpayer's total gross receipts. The portion of gross receipts that would be separately assigned under any paragraph of subsection (c), or under subsection (d), (e), or (f), if less than 5% of the taxpayer's total gross receipts subject to assignment under this section, is excluded from the receipts factor.~~

(c) Gross receipts derived from dividends paid by related parties, interest, investments, **or gains** from the disposition of a business or business segment are included in the receipts factor denominator, unless required to be excluded under subsection (g) of this section, and are assigned to the receipts factor numerator in this state as follows:

(1) Dividends paid by a related party, [as defined in Sec. 17 or other state law], are assigned to the receipts factor numerator in this state as follows:

(A) If paid from earnings that can be identified to particular years, the dividends are assigned to the receipts factor numerator in this state in a proportion equal to the dividend payor's apportionment factor in this state, determined pursuant to [ref. to state law], for those years.

(B) If it cannot reasonably be determined that the dividends were paid from earnings identified to particular years, the dividends are assigned to the receipts factor numerator in this state in a proportion equal to the dividend payor's apportionment factor in this state, determined pursuant to [ref. to state law], for the current and preceding year.

(C) If the dividends were paid from earnings that were generated ~~not~~ by the direct activities of ~~the dividend payor,~~ but of another related party a related party of the dividend payor, the dividends are assigned to the receipts factor numerator in this state under paragraphs (A) or (B) of this subsection, as applicable, ~~but~~ using the other related party's apportionment factor in this state, determined pursuant to [ref. to state law].

(2) Gains (but not losses) from the disposition of stock (or other intangible property rights) representing at least a 20% ownership interest in a business entity, or from the disposition of assets of a business entity or ~~business~~ segment of a business entity, are assigned to the receipts factor numerator in this state in a proportion equal to the apportionment factor in this state as determined pursuant to [ref. to state law] for that business entity, ~~business, or segment,~~ as if filing on a separate corporate basis, for the year preceding the disposition, unless use of the apportionment factor of a different year or year(s) is necessary to fairly represent the extent of the taxpayer's business activity in this state giving rise to the gains.

(3) Receipts from ~~those~~ activities described in sections 3(d) through 3(j) 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 reference to state's financial institution receipts factor rules] are assigned to the receipts factor numerator in this state to the extent those receipts would be assigned to this state under 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 institution receipts factor rules] as if the taxpayer were a financial institution.

(4) Gross receipts derived from accounts receivable previously sold to or otherwise transferred to the taxpayer, to the extent ~~they~~ those gross receipts cannot be assigned under subsection (c)(3), are assigned to the receipts factor numerator in this state if the receipts are collected from borrowers located in this state.

(5) The net amount, but not less than zero, of receipts not otherwise assigned under this subsection (c) arising from investment activities, including the holding ~~of,~~ ~~or the~~ 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) 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 receipts are managed in this state.

(d) **[USE IF THE STATE HAS A MULTI-FACTOR FORMULA]** Gross receipts, other than those included and assigned under subsection (c) are included in the receipts factor denominator, unless eliminated ~~pursuant to~~under subsection (g), and are assigned to the receipts factor numerator in this state in a proportion equal to the [average] of the taxpayer's [other apportionment factors] determined pursuant to [ref. to state law], if those factors are non-de minimis.

NOTE – FROM THIS POINT – THE DRAFT'S NUMBERING ASSUMES THAT THE STATE INCLUDES SUBSECTION (d). IF NOT – THE FOLLOWING PROVISIONS AND CROSS-REFERENCES TO ANY SUBSECTIONS INCLUDING AND AFTER (d) WILL HAVE TO BE RENUMBERED.

(e) Gross receipts, ~~other than those~~except gross receipts included and assigned ~~in~~under subsections (c) and (d), or eliminated under subsection (g), of a taxpayer whose income and factors are included in a combined or consolidated return in this state are included in the receipts factor denominator, ~~unless eliminated pursuant to Subsection (g)~~, and are assigned to the receipts factor numerator in this state in a proportion equal to the receipts factor of the combined or consolidated group in this state determined pursuant to [state law].

(f) Gross receipts, other than those included and assigned in subsections (c), (d), and (e), of a taxpayer that files as part of a federal consolidated return are included in the receipts factor denominator, unless eliminated pursuant to subsection (g), and are assigned to the receipts factor numerator in this state in a proportion equal to a percentage (but not greater than 100%), the numerator of which is the total of the consolidated group members' income apportioned to this state pursuant to [ref. to state law], and the denominator of which is the total federal consolidated income, but not greater than 100%.

| (ge) Notwithstanding any other provision of this section, if the application of these rules by a jurisdiction where the taxpayer is not taxable [as defined in Article IV, Section 3] would result in gross receipts being sourced to that jurisdiction, they will be eliminated from the receipts factor denominator.

| (hf) Nothing in this section shall prohibit the taxpayer from petitioning for or the [tax administrator] from applying an alternative method to calculate the taxpayer's receipts factor in order to fairly represent the extent of the taxpayer's business activity in this state as provided for in Article IV, Section 18.