

[REG. IV.18 Section #]

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

(1) 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 [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.

(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, the following gross receipts are included in the receipts factor denominator~~ and are assigned to the receipts factor numerator in this state as ~~follows~~provided:

(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 attributed 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 attributed 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 by the activities of 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, 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 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 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 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 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, 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 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) Except gross receipts included and assigned under subsections (c) and (d), or eliminated under subsection (g), gross receipts 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 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) Except gross receipts included and assigned under subsections (c), (d), and (e), or eliminated pursuant to subsection (g), gross receipts of a taxpayer that files as part of a federal consolidated return are included in the receipts factor denominator 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.

(g) 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~~ [those gross receipts](#) will be eliminated from the receipts factor denominator.

(h) 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.