

I. Apportionment Factors (G.S. 105-130.4)

1. General Business Corporations

Corporations engaged in multistate business activity, other than public utilities and excluded corporations, are required to apportion to this State all apportionable income by using a four-factor formula. The apportionment formula consists of the sum of the property factor, the payroll factor and twice the sales factor divided by four (4). If the sales factor does not exist, the denominator is the number of existing factors. If a property or payroll factor does not exist, the denominator is the number of existing factors plus one. The only time a factor does not exist is when there is no denominator. When there is a denominator for a particular factor, but no numerator, the factor is zero and becomes part of the apportionment factor.

a. Property Factor (G.S. 105-130.4, 17 NCAC 05C.0800)

i. Property Factor – In General

The property factor includes all real and tangible personal property owned or rented and used during the income year to produce apportionable income. The term “real and tangible personal property” includes land, buildings, machinery, stocks of goods, equipment and other real and tangible personal property used in connection with the production of apportionable income but does not include coin or currency. See definition of “apportionable income”.

Property used in connection with the production of nonapportionable income that is allocated in accordance with subsections (d) through (h) of the law is excluded from the factor.

Property used in connection with the production of both apportionable and nonapportionable income is included in the factor only to the extent the property was used in connection with the production of apportionable income. The method of determining that portion of the value to be included in the factor will depend upon the facts of each case.

The property factor includes the average value of property includible in the factor.

ii. Property Factor – Property Used for the Production of Apportionable Income

Property is included in the property factor if it is actually used during the income year for the production of apportionable income. Property held as reserves or standby facilities or property held as a reserve source of materials shall be included in the factor. For example, a plant temporarily idle or raw material reserves not currently being processed are includible in the factor. Property that is permanently idle or idle for the entire taxable year generally is not included in the factor computation. Property or equipment under construction during the income year (except inventoriable goods in process) is excluded from the factor until such property is actually used for the production of apportionable income. If the property is partially used for the production of apportionable income while under construction, the value of the property to the extent used is included in the property factor.

iii. Property Factor – Consistency in Reporting

The taxpayer must be consistent in the valuation of property and in excluding or including property in the property factor in filing returns with this State. In the event the taxpayer is

not consistent in its reporting, it shall disclose in its return to this State the nature and extent of the inconsistency.

iv. Property Factor – Numerator

The numerator of the property factor includes the average value of the taxpayer's real and tangible personal property owned or rented and used in this State during the income year for the production of apportionable income.

Property in transit between locations of the taxpayer to which it belongs is considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller which is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices is included in the numerator according to the state of destination.

The value of mobile or movable property such as construction equipment, trucks or leased electronic equipment which are located within and without this State during the income year is determined for purposes of the numerator of the factor on the basis of total time within the State during the income year. An automobile assigned to a traveling employee is included in the numerator of the factor of the state to which the employee's compensation is assigned under the payroll factor or in the numerator of the state in which the automobile is licensed.

v. Property Factor – Valuation of Owned Property

Property owned by the taxpayer is valued at its original cost. "Original cost" of property which has a basis other than zero for federal income tax purposes equals the basis of the property for federal income tax purposes at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reason of sale, exchange, abandonment, or any other type of disposition.

"Original cost" of property that has a zero basis for federal income tax purposes shall equal the taxpayer's actual cost of the property at the time of acquisition. If the actual cost is unknown, the original cost shall equal the fair market value of the property, or, at the option of the taxpayer, eight times the net annual rental rate as described in G.S. 105-130.4(j)(2). The valuation method chosen by the taxpayer must be used consistently thereafter.

Example 1: Taxpayer acquired a factory building in this State at a cost of \$500,000 and years later, expended \$100,000 for major remodeling of the building. Taxpayer files its return on the calendar year basis and claims a depreciation deduction in the amount of \$22,000 on the building. The value of the building includible in the numerator and denominator for the property factor is \$600,000, as the depreciation deduction is not taken into account in determining the value of the building for purposes of the factor.

Example 2: X corporation merges into Y corporation in a tax-free reorganization under the Internal Revenue Code. At the time of the merger, X corporation owns a factory which X built years earlier at a cost of \$1,000,000. X has been depreciating the factory at the rate of two percent per year, and its basis in X's hands at the time of the merger is \$600,000. Since the property is acquired by Y in a transaction in which, under the

Internal Revenue Code, the basis in Y's hands is the same as the basis in X's, Y includes the property in Y's property factor at X's original cost, without adjustment for depreciation, i.e., \$1,000,000.

Example 3: Corporation Y acquires the assets of corporation X in a liquidation by which Y is entitled to use its stock cost as the basis of the X assets under the Internal Revenue Code. Under these circumstances, Y's cost of the assets is the purchase price of the X stock, prorated over the X assets.

Example 4: Corporation X was deeded from local government a potential manufacturing facility (cost unknown) with a market value of \$1,000,000 as an incentive for locating in the State. Since the property would have a zero basis for federal income tax purposes, (Code 118(a)), Corporation X includes the \$1,000,000 fair market value of the property in the computation of its property factor, or at X's option may include eight times the net annual rental rate of the property.

Inventory of stock of goods is included in the factor in accordance with the valuation method used for federal income tax purposes, except when inventory is valued by use of the LIFO method, actual cost of the FIFO valuation method must be used.

Property acquired by gift or inheritance is included in the factor at its basis for determining depreciation for federal income tax purposes.

vi. Property Factor – Rented Property

Property rented by the taxpayer is valued at eight times the net annual rent paid during the current income year. Net annual rent is the total annual rent paid by the taxpayer less amounts received from subrentals. However, subrentals are not deducted when they constitute apportionable income. Rental values so determined are included in the numerator and denominator and are averaged by including such amounts at the beginning and at the end of the income year.

Example 1: The taxpayer receives subrents from a bakery concession in a food market operated by the taxpayer. The subrents are apportionable income and are not deducted from rent paid by the taxpayer for the food market.

Example 2: The taxpayer rents a 20-story office building and uses the lower two stories for its general corporation headquarters. The remaining 18 floors are subleased to others. The subrents are nonapportionable income and are to be deducted from the rent paid by the taxpayer.

“Annual rent” is the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer or for its benefit for the use of the property and includes:

- Any amount payable for the use of real or tangible personal property, or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.

Example: A taxpayer, pursuant to the terms of a lease, pays a lessor \$1,000 per month as a base rental and at the end of the year pays the lessor one percent of its gross sales of \$400,000. The annual rent is \$16,000 (\$12,000 plus one percent of \$400,000 or \$4,000).

- Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items which are required to be paid by the terms of the lease or other arrangement, and does not include amounts paid as service charges, such as utilities, janitorial services, etc. If a payment includes rent and other charges unsegregated, the amount of rent is determined by consideration of the relative values of the rent and the other items.

Example 1: A taxpayer, pursuant to the terms of a lease, pays the lessor \$12,000 a year rent plus taxes in the amount of \$2,000 and interest on a mortgage in the amount of \$1,000. The annual rent is \$15,000.

Example 2: A taxpayer stores part of its inventory in a public warehouse. The total charge for the year was \$1,000 of which \$700 was for the use of storage space and \$300 for inventory, insurance, handling and shipping charges and C.O.D. collections. The annual rent is \$700.

“Annual rent” does not include incidental day-to-day expenses such as hotel and motel accommodations, daily rental of automobiles, etc.

Leasehold improvements shall, for the purposes of the property factor, be treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. Hence, the original cost of leasehold improvements is included in the factor.

vii. Property Factor – Averaging Property Values

As a general rule the average value of property owned by the taxpayer is determined by averaging the values at the beginning and ending of the income year. However, the Secretary may require averaging by monthly or other periodic values if such method of averaging is required to properly reflect the average value of the taxpayer’s property for the income year.

Averaging by monthly or other periodic values will generally be applied if substantial fluctuations in the values of the property exist during the income year or where property is acquired after the beginning of the income year or disposed of before the end of the income year.

b. Payroll Factor (G.S. 105-130.4, 17 NCAC 05C.0900)

i. Payroll Factor – In General

The payroll factor includes the total amount paid by the taxpayer for compensation in connection with earning apportionable income during the income year.

ii. Payroll Accounting Method

The total amount “paid” to employees is determined upon the basis of the taxpayer’s accounting method. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid. Notwithstanding the taxpayer’s method of accounting, at the election of the taxpayer, compensation paid to employees may be included in the payroll factor by use of the cash method if the taxpayer is required to report such compensation under such method for unemployment compensation purposes.

The taxpayer must be consistent in the treatment of compensation paid in filing returns with this State. In the event the taxpayer is not consistent in its reporting it must disclose in its return to this State the nature and extent of the inconsistency.

iii. The Term “Compensation”

The term “compensation” means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. **Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor.** Amounts considered paid directly include the value of board, rent, housing, lodging and other benefits or services furnished to employees by the taxpayer in return for personal services provided that such amounts constitute income to the recipient under the Internal Revenue Code. In the case of employees not subject to the Internal Revenue Code, e.g., those employed in foreign countries, the determination of whether such benefits or services would constitute income to the employees is as though such employees were subject to the Internal Revenue Code.

iv. The Term “Employee”

The term “employee” means (1) any officer of a corporation, or (2) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee. Generally, a person will be considered to be an employee if he is included by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act; except that, since certain individuals are included within the term “employees” in the Federal Insurance Contributions Act who would not be employees under the usual common-law rules, it may be established that a person who is included as an employee for purposes of the Federal Insurance Contributions Act is not an employee for purposes of this regulation.

v. Payroll Factor Includes Only Apportionable Income Compensation and Excludes Compensation to General Executive Officers

The payroll factor includes only compensation that is attributable to the apportionable income subject to apportionment. The compensation of any employee whose activities are connected primarily with nonapportionable income is excluded from the factor. All compensation paid to general executive officers is excluded in computing the payroll factor. General executive officers include the chairman of the board, president, vice-presidents, secretary, treasurer, comptroller and any other office serving in similar capacities.

Example 1: The taxpayer uses some of its employees in the construction of a storage building that, upon completion, is used for the production of apportionable income. The wages paid to those employees are treated as a capital expenditure by the taxpayer. The amount of such wages is included in the payroll factor.

Example 2: The taxpayer owns various securities from which nonapportionable income is derived. The management of the taxpayer’s investment portfolio is the only duty of Mr. X, an employee. The salary paid to Mr. X is excluded from the payroll factor.

vi. Denominator of Payroll Factor

Except as provided above, the denominator of the payroll factor is the total compensation paid everywhere during the income year. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is exempt from taxation, for example, by Public Law 86-272, is included in the denominator of the payroll factor.

Example: A taxpayer has employees in its state of legal domicile (State A) and is taxable in State B. In addition the taxpayer has other employees whose services are performed entirely in State C where the taxpayer is exempt from taxation by Public Law 86-272. As to these latter employees, the compensation will be assigned to State C where their services are performed (i.e., included in the denominator only of the payroll factor) even though the taxpayer is not taxable in State C.

vii. Numerator of Payroll Factor

Except as provided above, the numerator of the payroll factor is the total amount paid in this State during the tax period by the taxpayer for compensation. The tests to be applied in determining whether compensation is paid in this State are derived from the Model Unemployment Compensation Act. Accordingly, if compensation paid to employees is included in the payroll factor by use of the cash method of accounting or if the taxpayer is required to report such compensation under such method for unemployment compensation purposes, it shall be presumed that the total wages reported by the taxpayer to this State for unemployment compensation purposes constitutes compensation paid in this State except for compensation excluded under Item v above. The presumption may be overcome by satisfactory evidence that an employee's compensation is not properly reportable to this State for unemployment compensation purposes.

Compensation is paid in this State if any one of the following tests, applied consecutively, is met:

- The employee's service is performed entirely within the State.
- The employee's service is performed both within and without the State, but the service performed without the State is incidental to the employee's service within the State. The word "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction.
- If the employee's services are performed both within and without this State, the employee's compensation will be attributed to this State:
 - If the employee's base of operations is in this State; or
 - If there is no base of operations in any state in which some part of the service is performed, but the place from which the service is directed or controlled is in this State; or
 - If the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employee's residence is in this State.

The words “base of operations” means the place of more or less permanent nature from which the employee starts his work and to which he customarily returns in order to receive instructions from the taxpayer or communications from his customers or other persons, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of his trade or profession at some other point or points.

The words “place from which the service is directed or controlled” refer to the place from which the power to direct or control is exercised by the taxpayer.

viii. Corporations Utilizing Common Paymaster

A parent corporation or any corporation serving as common paymaster for payroll purposes shall eliminate from the numerator and denominator of its payroll factor computation the amounts paid on behalf of controlled members for which it has charged such member the exact cost and which does not meet the definition of compensation insofar as the common paymaster is concerned. The numerator and denominator of the payroll factor shall be determined in accordance with applicable statute after elimination of the described amounts.

A subsidiary or otherwise controlled corporation which is a member of and/or participant in a common paymaster plan for payroll purposes, shall include in its numerator and denominator of the payroll factor computation amounts paid to its parent corporation or to another corporation of the controlled group as reimbursement in whatever form and by whatever label for employees’ compensation as defined. The amounts paid by the subsidiary or controlled corporation includable in the numerator and the denominator of the payroll factor shall be determined in accordance with applicable statute.

c. Sales Factor (G.S. 105-130.4, 17 NCAC 05C.1000)

i. Sales Factor – Sales Made in General Business Operations

Subsection (a) (7) of G.S. 105-130.4 defines the term “sales” to mean all gross receipts of the taxpayer except receipts from the “casual sale” of property, receipts allocated under subsections (c) through (h) of G.S. 105-130.4, receipts exempt from taxation, and the portion of receipts realized from the sale or maturity of securities or other obligations that represents a return of principal. Thus, for the purposes of the sales factor, the term “sales” means generally all gross receipts derived by a taxpayer from transactions and activities in the course of its regular trade or business operations which produce apportionable income within the meaning of subsection (a) (1) of G.S. 105-130.4.

A “casual sale” of property means the sale of any property that was not purchased, produced, or acquired primarily for sale in the corporation’s regular trade or business.

In the case of a taxpayer whose business activity consists of manufacturing and selling or purchasing and reselling goods or products, “sales” includes all gross receipts from the sales of such goods or products (or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year) held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales, less returns and allowances, and includes all interest income, service charges, carrying charges or time-price differential charges

incidental to such sales. Federal and state excise taxes (including sales taxes) shall be included as part of such receipts if such taxes are passed on to the buyer or included as part of the selling price of the product.

ii. Sales Factor – Sales Incidental To General Business Operations

The term “sales”, as a general rule, also includes gross receipts derived by a taxpayer from business transactions or activities which are incidental to its principal business activity and which are includable in apportionable income. However, substantial amounts of gross receipts arising from an incidental or occasional sale of a fixed asset used in connection with the taxpayer’s regular trade or business will be excluded from the sales factor since such sales constitute a “casual sale” of property and the inclusion of such gross receipts will not fairly apportion to this State the income derived by the taxpayer from its business activity in this State. For example, gross receipts from the sale of a factory or plant will be excluded from the sales factor but the gain or loss on the sale will be included in apportionable income.

Likewise, the “proceeds” from “rollover” of working capital invested in certificates of deposits, money market accounts, etc., on a short-term temporary basis are not considered gross receipts for sales factor purposes. The earnings of such investments whether labeled as gains or interest will be the only amounts includable in the sales factor.

In including or excluding gross receipts, the taxpayer shall be consistent in the treatment of such gross receipts in filing returns with this State. In the event the taxpayer is not consistent in its reporting, it shall disclose in its return to this State the nature and extent of the inconsistency.

iii. Sales Factor – Sales Made In Other Types of Business Activity

As applied to a taxpayer engaged in business activity other than the manufacturing and selling or purchasing and reselling of property, “sales” includes the gross receipts as defined in this subject.

If the business activity consists of providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, research and development contracts, “sales” includes the gross receipts from the performance of such services including fees, commissions, and similar items.

In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, gross receipts includes the entire reimbursed cost, plus the fee.

If the business activity is the renting of real or tangible personal property, “sales” includes the gross receipts from the rental, lease, or licensing the use of the property.

If the business activity is the sale, assignment, or licensing of intangible personal property such as patents and copyrights, “sales” includes the gross receipts therefrom.

iv. Sales Factor – Numerator

The numerator of the sales factor will include the gross receipts from sales which are attributable to this State, and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to such sales regardless of the place where the

accounting records are maintained or the location of the contract or other evidence of indebtedness.

Where a taxpayer is not taxable in another state on its apportionable income but is taxable in another state only because of nonapportionable income, all sales shall be attributable to this State.

v. Sales Factor – What Sales of Tangible Personal Property Are In This State

Gross receipts from the sales of tangible personal property are in this State if the property is delivered or shipped to a purchaser within this State regardless of the f.o.b. point or other conditions of sale.

Property shall be deemed to be delivered or shipped to a purchaser within this State if the recipient is located in this State, even though the property is ordered from outside this State.

Example: The taxpayer, with inventory in State A, sold \$100,000 of its products to a purchaser having branch stores in several states including this State. The order for the purchase was placed by the purchaser's central purchasing department located in State B. \$25,000 of the purchase order was shipped directly to purchaser's branch store in this State. The branch store in this State is the "purchaser within this State" with respect to \$25,000 of the taxpayer's sales.

Property is delivered or shipped to a purchaser within this State if the shipment terminates in this State, even though the property is subsequently transferred by the purchaser to another state.

Example: The taxpayer makes a sale to a purchaser who maintains a central warehouse in this State at which all merchandise purchased is received. The purchaser reships all the goods to its branch stores in other states for sale.

All of the taxpayer's products shipped to the purchaser's warehouse in this State are property "delivered or shipped to a purchaser within this State."

The term "purchaser within this State" shall include the ultimate recipient of the property if the taxpayer in this State, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this State.

Example: A taxpayer in this State sold merchandise to a purchaser in State A. Taxpayer directed the manufacturer or supplier of the merchandise in State B to ship the merchandise to the purchaser's customer in this State pursuant to the purchaser's instructions. The sale by the taxpayer is "in this State."

When property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a purchaser in this State, the sales are in this State.

Example: The taxpayer, a produce grower in State A, begins shipment of perishable produce to the purchaser's place of business in State B. While en route the produce is diverted to the purchaser's place of business in this State where the taxpayer is subject to tax. The sale by the taxpayer is attributed to this State.

vi. Sales Factor – Sales To United States Government

Gross receipts from the sales of tangible personal property to the United States Government are in this State if the property is shipped to or received or accepted by the United States

Government in this State. For the purposes of this regulation, only sales for which the United States Government makes direct payment to the seller pursuant to the terms of its contract constitute sales to the United States Government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, do not constitute sales to the United States Government.

Example 1: A taxpayer contracts with General Services Administration to deliver X number of trucks which were paid for by the United States Government. The United States Government is the purchaser.

Example 2: The taxpayer is a subcontractor to a prime contractor with the National Aeronautics and Space Administration and contracts to build a component of a rocket for \$1,000,000. The sale of the subcontractor to the prime contractor is not a sale to the United States Government.

When the United States Government is the purchaser of property which remains in the possession of the taxpayer in this State for further processing under another contract, or for other reasons, “shipment” is deemed to be made at the time of acceptance by the United States Government.

vii. Sales Factor – Numerator – Other Receipts Constituting Apportionable Income

G.S. 105-130.4(1)(3) contains provisions for including gross receipts from other business income transactions in the numerator of the sales factor. Under this subsection gross receipts are attributed to this State if:

- The receipts are from real or tangible property located in this State; or
- The receipts are from intangible property and are received from sources in this State; or
- The receipts are from services and the income producing activity that gave rise to the receipts is performed within this State.

The term “income producing activity” means the act or acts directly engaged in by the taxpayer, or by anyone acting on the taxpayer’s behalf, in the regular course of its trade or business for the ultimate purpose of obtaining gains or profits.

Except for receipts from the casual sale of property, as defined above, receipts described above from other transactions constituting apportionable income shall be attributed to this State as set forth below:

- Gross receipts from the sale, lease, rental or other use of real property are in this State if the real property is located in this State.
- Gross receipts from the rental, lease, licensing the use of, or other use of tangible property shall be assigned to this State if the property is within this State during the entire period of rental, lease, license or other use. If the property is within and without this State during such period, gross receipts attributable to this State shall be based upon the ratio which the time the property was physically present or was used in this State bears to the total time or use of the property everywhere during such period.
- Gross receipts from intangible personal property shall be attributed to this State if they are received from sources within this State.

Example 1: Royalties from trademarks are attributed to this State to the extent the royalties are received as a result of sales within this State.

Example 2: Royalties from patents, secret processes, or other similar intangible property are attributed to this State to the extent the patent, secret process, or other similar intangible property is employed in production, fabrication, manufacturing, processing, or other similar use in this State.

Example 3: Royalties from copyrights are attributable to this State to the extent that printing or other publication originates in this State.

Example 4: Dividends are attributable to this State if the payer's commercial domicile is in this State.

Example 5: Interest received from general obligations is attributable to this State if the payer's commercial domicile is in this State.

Example 6: Interest received from specific obligations is attributable to this State if the obligation can be traced to property in this State. For example, interest received from a loan obtained and used by the borrower to buy a piece of real estate in North Carolina is attributable to this State. Interest received from a loan in which real or tangible personal property located in this State is used for collateral is attributable to this State. Interest received as the result of nonpayment or deferred payment of royalties on trademarks is attributable to this State in the same proportion as the royalties are attributable to North Carolina.

- Gross receipts for the performance of personal services are attributable to this State to the extent such services are performed in this State. If the services are performed partly within and without this State, such receipts shall be attributed to this State based upon the ratio which the time spent in performing such services in this State bears to the total time spent in performing such services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation which gives rise to such gross receipts. Personal service not directly connected with the performance of the contract or other obligation, as for example, time expended in negotiating the contract, is excluded from the computations.

Example 1: The taxpayer, a road show, gave theatrical performances at various locations in State X and in this State during the income year. All gross receipts from performances given in this State are attributed to this State.

Example 2: The taxpayer, a public opinion survey corporation, conducted a poll by its employees in State X and in this State for the sum of \$9,000. The project required 600 man-hours to obtain the basic data and prepare the survey report. Two hundred of the 600 man-hours were expended in this State. The receipts attributable to this State are \$3,000.

$$\begin{array}{r} \underline{200 \text{ man-hours}} \\ 600 \text{ man-hours} \end{array} \quad \times \quad \$9,000 \quad = \quad \$3,000$$

2. Public Utilities, Excluded Corporations and Air or Water Transportation Corporations Apportionment Factors (G.S. 105-130.4)

a. Railroad Companies

All apportionable income of a railroad company must be apportioned to North Carolina by multiplying the income by a fraction, the numerator of which is the railway operating revenue from business done within North Carolina and the denominator of which is the total railway operating revenue everywhere.

b. Telephone Companies

All apportionable income of a telephone company must be apportioned to this State by multiplying the income by a fraction. The numerator of the fraction is gross operating revenue from local service in North Carolina plus gross operating revenue from toll services performed wholly within North Carolina plus the proportion of revenue from interstate toll services attributable to North Carolina as shown by the records of the company plus the gross operating revenue in North Carolina from other services less the uncollectible revenue in North Carolina. The denominator of the fraction is the total gross operating revenue everywhere less total uncollectible revenue.

c. Motor Carriers of Property and/or Passengers

All apportionable income of a motor carrier of property and/or passengers must be apportioned by multiplying the income by a fraction, the numerator of which is the number of vehicle miles in North Carolina and the denominator of which is the total number of vehicle miles of the company everywhere. The word "vehicle miles" shall mean miles traveled by vehicles owned or operated by the company hauling property or passengers for a charge or traveling on a scheduled route.

d. Telegraph Companies

All apportionable income of a telegraph company must be apportioned by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

e. Excluded Corporations, including Construction Contractors, and Other Public Utilities

All apportionable income of an excluded corporation and all other public utilities must be apportioned by multiplying apportionable income by the sales factor as defined in G.S. 105-130.4. "Excluded corporation" means any company engaged in business as a building or construction contractor, a securities dealer, loan company or company which receives more than fifty percent (50%) of its ordinary gross income from intangible property. A building or construction contractor is a business so classified in the North American Industry Classification System (NAICS) published by the Federal Office of Management and Budget.

f. Air or Water Transportation Corporations

All apportionable income of an air or water transportation corporation must be apportioned by a fraction, the numerator of which is the corporation's revenue ton-miles in this state and the denominator of which is the corporation's revenue ton-miles everywhere. The term "revenue ton-mile" means one ton of passengers, freight, rail, or other cargo carried one mile. In making this computation, a passenger is considered to weigh two hundred pounds.

Revenue ton-miles in this State are determined for air transportation companies from the flights, landings and/or departures from locations in this State; and for water transportation companies from dockings and/or departures from locations in this State.