



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

MAY 28, 2010

New Apportionment Method

Background

Effective June 1, 2010, businesses that report “apportionable activities and income” under the business and occupation (B&O) tax classifications listed below will need to use a new apportionment method if they have nexus outside of Washington or pay taxes outside of Washington. (See Second Engrossed Substitute Senate Bill 6143, Chapter 23, Laws of 2010 1st Special Session [Part 1].)

Before June 1, 2010:

- Financial institutions used a three-factor formula (based on sales, payroll and property, inside and outside of this state) to apportion gross income. (See WAC 458-20-14601.)
- Other businesses used separate accounting or a cost apportionment method to apportion gross income. (See WAC 458-20-194.)

New legislation

A new, single-factor apportionment methodology based on receipts was provided in Part I of Second Engrossed Substitute Senate Bill 6143 (section 105, chapter 23, Laws of 2010 1st special session).

Under the new apportionment methodology, income is apportioned to Washington by multiplying a business’s “apportionable income” by the receipts factor. For any “apportionable activity,” the numerator of the receipts factor is the business’s gross annual income attributable to Washington State. The denominator is the business’s gross annual income received worldwide from that activity.

The legislation provides a detailed hierarchy of rules to determine whether gross income is attributable to Washington or some other jurisdiction.

For financial institutions, the Department is required to adopt the new single-factor apportionment methodology by rule.

This new apportionment method applies to income earned on and after June 1, 2010.

Apportionable activities and income

The new apportionment calculation must be used for income reported under the following B&O tax classifications:

- Service and other activities (RCW 82.04.290(2))
- Royalties
- Travel agents and tour operators
- International steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent
- Stevedoring and associated activities
- Disposing of low-level waste
- Title insurance producers, title insurance agents, or surplus line brokers
- Public or nonprofit hospitals
- Real estate brokers
- Research and development performed by nonprofit corporations or associations
- Inspecting, testing, labeling, and storing canned salmon owned by another person
- Representing and performing services for fire or casualty insurance companies as an independent resident managing general agent licensed under the provisions of chapter 48.17 RCW
- Contests of chance
- Horse races
- International investment management
- Aerospace product development
- Printing or publishing a newspaper, but only with respect to advertising income
- Printing materials other than newspapers, and of publishing periodicals or magazines, but only with respect to advertising income
- Cleaning up radioactive waste and other by-products of weapons production and nuclear research and development, but only with respect to activities that would be taxable as an “apportionable activity” if this special tax classification did not exist

Reporting under multiple classifications

Taxpayers reporting under more than one of the above tax classifications must calculate a separate receipts factor for each tax classification.

For more information

The new apportionment calculation is discussed in detail in WAC 458-20-19402, 19403, and 19404 which are available on the Department’s website at: dor.wa.gov/EconomicNexus.

For immediate questions, send an email to: communications@dor.wa.gov or contact the Department’s Telephone Information Center at: **1-800-647-7706**.