

RCW 82.04.462 Apportionable income. (1) The apportionable income of a person within the scope of RCW 82.04.460(1) is apportioned to Washington by multiplying its apportionable income by the receipts factor. Persons who are subject to tax under more than one of the tax classifications enumerated in RCW 82.04.460(4)(a) (i) through (x) must calculate a separate receipts factor for each tax classification that the person is taxable under.

(2) For purposes of subsection (1) of this section, the receipts factor is a fraction and is calculated as provided in subsections (3) and (4) of this section and, for financial institutions, as provided in the rule adopted by the department under the authority of RCW 82.04.460(2).

(3)(a) The numerator of the receipts factor is the total gross income of the business of the taxpayer attributable to this state during the tax year from engaging in an apportionable activity. The denominator of the receipts factor is the total gross income of the business of the taxpayer from engaging in an apportionable activity everywhere in the world during the tax year.

(b) Except as otherwise provided in this section, for purposes of computing the receipts factor, gross income of the business generated from each apportionable activity is attributable to the state:

(i) Where the customer received the benefit of the taxpayer's service or, in the case of gross income from royalties, where the customer used the taxpayer's intangible property. When a customer receives the benefit of the taxpayer's services or uses the taxpayer's intangible property in this and one or more other states and the amount of gross income of the business that was received by the taxpayer in return for the services received or intangible property used by the customer in this state can be reasonably determined by the taxpayer, such amount of gross income must be attributed to this state.

(ii) If the customer received the benefit of the service or used the intangible property in more than one state and if the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i) of this subsection (3), gross income of the business must be attributed to the state in which the benefit of the service was primarily received or in which the intangible property was primarily used.

(iii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i) or (ii) of this subsection (3), gross income of the business must be attributed to the state from which the customer ordered the service or, in the case of royalties, the office of the customer from which the royalty agreement with the taxpayer was negotiated.

(iv) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), or (iii) of this subsection (3), gross income of the business must be attributed to the state to which the billing statements or invoices are sent to the customer by the taxpayer.

(v) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), or (iv) of this subsection (3), gross income of the business must be attributed to the state from which the customer sends payment to the taxpayer.

(vi) If the taxpayer is unable to attribute gross income of the business under the provisions of (b)(i), (ii), (iii), (iv), or (v) of this subsection (3), gross income of the business must be attributed to the state where the customer is located as indicated by the

customer's address: (A) Shown in the taxpayer's business records maintained in the regular course of business; or (B) obtained during consummation of the sale or the negotiation of the contract for services or for the use of the taxpayer's intangible property, including any address of a customer's payment instrument when readily available to the taxpayer and no other address is available.

(vii) If the taxpayer is unable to attribute gross income of the business under the provisions of (b) (i), (ii), (iii), (iv), (v), or (vi) of this subsection (3), gross income of the business must be attributed to the commercial domicile of the taxpayer.

(viii) For purposes of this subsection (3) (b), "customer" means a person or entity to whom the taxpayer makes a sale or renders services or from whom the taxpayer otherwise receives gross income of the business. "Customer" includes anyone who pays royalties or charges in the nature of royalties for the use of the taxpayer's intangible property.

(c) Gross income of the business from engaging in an apportionable activity must be excluded from the denominator of the receipts factor if, in respect to such activity, at least some of the activity is performed in this state, and the gross income is attributable under (b) of this subsection (3) to a state in which the taxpayer is not taxable. For purposes of this subsection (3) (c), "not taxable" means that the taxpayer is not subject to a business activities tax by that state, except that a taxpayer is taxable in a state in which it would be deemed to have a substantial nexus with that state under the standards in RCW 82.04.067(1) regardless of whether that state imposes such a tax. "Business activities tax" means a tax measured by the amount of, or economic results of, business activity conducted in a state. The term includes taxes measured in whole or in part on net income or gross income or receipts. "Business activities tax" does not include a sales tax, use tax, or a similar transaction tax, imposed on the sale or acquisition of goods or services, whether or not denominated a gross receipts tax or a tax imposed on the privilege of doing business.

(d) This subsection (3) does not apply to financial institutions with respect to apportionable income taxable under RCW 82.04.290. Financial institutions must calculate the receipts factor as provided in subsection (4) of this section and the rule adopted by the department under the authority of RCW 82.04.460(2) with respect to apportionable income taxable under RCW 82.04.290. Financial institutions that are subject to tax under any other tax classification enumerated in RCW 82.04.460(4) (a) (i) through (v) and (vii) through (x) must calculate a separate receipts factor, as provided in this section, for each of the other tax classifications that the financial institution is taxable under.

(4) A taxpayer may calculate the receipts factor for the current tax year based on the most recent calendar year for which information is available for the full calendar year. If a taxpayer does not calculate the receipts factor for the current tax year based on previous calendar year information as authorized in this subsection, the business must use current year information to calculate the receipts factor for the current tax year. In either case, a taxpayer must correct the reporting for the current tax year when complete information is available to calculate the receipts factor for that year, but not later than October 31st of the following tax year. Interest will apply to any additional tax due on a corrected tax return. Interest must be computed and assessed as provided in RCW

82.32.050 and accrues until the additional taxes are paid. Penalties as provided in RCW 82.32.090 will apply to any such additional tax due only if the current tax year reporting is not corrected and the additional tax is not paid by October 31st of the following tax year. Interest as provided in RCW 82.32.060 will apply to any tax paid in excess of that properly due on a return as a result of a taxpayer using previous calendar year data or incomplete current-year data to calculate the receipts factor.

(5) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Apportionable activities" and "apportionable income" have the same meaning as in RCW 82.04.460.

(b) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision of a foreign country. [2014 c 97 § 305; 2010 1st sp.s. c 23 § 105.]

Contingency—Application—2010 1st sp.s. c 23 §§ 102-112: See notes following RCW 82.04.067.

Effective date—2010 1st sp.s. c 23: See note following RCW 82.04.4292.

Findings—Intent—2010 1st sp.s. c 23: See notes following RCW 82.04.220.