

APPORTIONMENT FORMULAS

TELECOMMUNICATIONS SERVICE PROVIDERS,
BROADCASTERS, AND PUBLISHERS



APPORTIONMENT FORMULA

- Fairly apportion the income of a multistate corporation to each of the states in which it has nexus
- Use of industry specific formulas when the general formula does not accurately reflect the income of the corporation derived from North Carolina and the citizens of North Carolina
- DOR brought to the attention of Revenue Laws three industries whose income derived from North Carolina is not accurately reflected by the general apportionment formula

RECOMMENDATION

- Payroll Factor – No change
- Property Factor – Exclude outer jurisdictional property
- Sales Factor – Modify
 - **Publishers** – Include sales of advertising and the sale, rental, or other use of publisher's customer lists. Source based on a circulation factor.
 - **Broadcasters** – Include gross receipts from video programming and audio programming. Source based on an audience factor.
 - **Telecommunications service provider** -- Include telecommunication service. Source based on sales tax sourcing rules.

PROPOSAL: OUTER JURISDICTIONAL PROPERTY

- Exclude outer-jurisdictional property from property factor for all corporations
 - Tangible personal property that is not physically located in any state and therefore is not taxable in any state
 - Examples include orbiting satellites and undersea transmission cables
 - Excluding the property from the formula will prevent the dilution of income sourced to North Carolina
 - Factor will be *Property taxable in NC / Property taxable in another jurisdiction*
 - As opposed to *Property taxable in NC / Property elsewhere*

PROPOSAL: TELECOMMUNICATIONS SERVICE PROVIDERS

- Modify current industry specific apportionment formula
 - Current formula only applies to landlines
 - Proposal would modernize the formula by extending its application to all telecommunications service providers
- Modify the numerator
 - Include gross receipts from telecommunications service
 - Use the same sourcing rules as applied in sales tax statutes
 - Recommendation of MTC and DOR
- Modify the denominator
 - Exclude gross receipts from the sale of service that is not taxable in the state to which it would be apportioned
 - Recommendation of MTC and DOR

PROPOSAL: BROADCASTERS

- New industry specific apportionment formula
- Modify numerator
 - Include all receipts from broadcast programming
 - Video programming as defined in the sales tax statutes
 - Audio programming
 - Source based upon an *audience factor*
 - Ratio of the corporation's NC listening or viewing audience to the corporation's total listening or viewing audience
 - Corporation may use published ratings or subscription statistics to determine its audience factor
 - Recommendation of MTC and DOR

PROPOSAL: PUBLISHERS

- New industry specific apportionment formula
- Modify numerator
 - Include receipts from advertising and from the sale, rental, other use of its customer lists
 - Source based upon a circulation factor
 - Ratio of the corporation's NC purchasers and subscribers of a publication to the corporation's total purchasers and subscribers of the publication
 - Recommendation of MTC and DOR