

**67.753 Apportionment of net profit or gross receipts of business entity to local tax district.**

- (1) Except as provided in subsection (4) of this section, net profit or gross receipts shall be apportioned as follows:
  - (a) For business entities with both payroll and sales revenue in more than one (1) tax district, by multiplying the net profit or gross receipts by a fraction, the numerator of which is the payroll factor, described in subsection (2) of this section, plus the sales factor, described in subsection (3) of this section, and the denominator of which is two (2); and
  - (b) For business entities with sales revenue in more than one (1) tax district, by multiplying the net profits or gross receipts by the sales factor as set forth in subsection (3) of this section.
- (2) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the tax district during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the tax district based on the time the individual's service is performed within the tax district.
- (3) The sales factor is a fraction, the numerator of which is the total sales revenue of the business entity in the tax district during the tax period, and the denominator of which is the total sales revenue of the business entity everywhere during the tax period.
  - (a) The sale, lease, or rental of tangible personal property is in the tax district if:
    1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the tax district regardless of the f.o.b. point or other conditions of the sale; or
    2. The property is shipped from an office, store, warehouse, factory, or other place of storage in the tax district and the purchaser is the United States government.
  - (b) Sales revenues, other than revenue from the sale, lease, or rental of tangible personal property or the lease or rental of real property, are apportioned to the tax district based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the tax district and the denominator of which is the total time spent performing that income-producing activity.
  - (c) Sales revenue from the lease or rental of real property is allocated to the tax district where the property is located.
- (4) If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the tax district, the business entity may petition the tax district or the tax district may require, in respect to all or any part of the business entity's business activity, if reasonable:
  - (a) Separate accounting;

- (b) The exclusion of any one (1) or more of the factors;
- (c) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the tax district; or
- (d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit or gross receipts.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 63, sec. 2, effective July 13, 2004. -- Created 2003 Ky. Acts ch. 117, sec. 2, effective June 24, 2003.