



CITY OF TACOMA

## **RULE 194A**

### **DOING BUSINESS WITHIN AND WITHOUT THE CITY, ALLOCATION AND APPORTIONMENT**

**EFFECTIVE FOR TAX PERIODS THROUGH DECEMBER 31, 2019**

Persons engaged in business outside this city who (1) sell or lease personal property to buyers or lessees in this city, or (2) perform construction or installation contracts in this city, or (3) render services to others herein, are doing business in this city, whether or not they have a permanent place of business in this city.

Persons engaged in business in or having a place of business in this city who (1) sell or lease personal property to buyers or lessees outside this city, or (2) perform construction or installation contracts outside this city, or (3) render services to others outside this city, are doing business both within and without this city.

Whether or not such persons are subject to business and occupation tax under the law depends upon the kind of business and the manner in which it is transacted.

Businesses engaged in business in other municipal jurisdictions are required to allocate their sales of tangible personal property and apportion their service and other activities income based on the methods described below.

#### **Definitions**

"Compensation" means wages, salaries, commissions, and any other form of remuneration paid to individuals for personal services that are or would be included in the individual's gross income under the federal Internal Revenue Code.

"Individual" means any individual who, under the usual common law rules applicable in determining the employer employee relationship, has the status of an employee of that taxpayer.

"Customer location" means the city or unincorporated area of a county where the majority of the contacts between the taxpayer and the customer take place. The term is not a commonly used term in other tax apportionment methods. Phone contacts are assigned to the place of business.

"Primarily assigned" means the business location of the taxpayer where the individual performs his or her duties.



"Service taxable income" or "service income" means gross income of the business subject to tax under the service and other business activity classification, including but not limited to royalty income.

"Taxable in the customer location" means either that a taxpayer is subject to a gross receipts tax in the customer location for the privilege of doing business, or that the government where the customer is located has the authority to subject the taxpayer to Gross receipts tax regardless of whether, in fact, the government does so.

**Allocation and Apportionment.** In an effort to eliminate multiple taxation of taxpayers by various cities, allocation and apportionment rules were instituted by the cities. Beginning January 1, 2008, RCW 35.102.130 established new allocation and apportionment requirements for Washington cities with a gross receipts tax. The following allocation rules apply to gross income, except for financial institutions subject to RCW 82.14A. The new allocation procedure requires businesses to allocate or source their sales of tangible personal property to the local jurisdiction where delivery takes place. The apportionment procedures require businesses that report under the service and other tax classification to apportion their income based on a two factor formula. The two factors are payroll and service revenue.

Persons conducting all business activities within the City whose sales and services are delivered wholly within the city (does not engage in any business activity outside of Tacoma) do not change their tax reporting requirements and should compute their tax in the same manner as they have historically reported their tax prior to January 1, 2008.

**Allocation.** All activities other than those taxed as service or royalties under TMC 6A.30.050 (A) (9) shall be allocated to the location where the activity occurs.

**Retailing/Wholesaling/Retail Services.** Gross income is allocated to the City of Tacoma if the goods or services are delivered within the city and the taxpayer is "engaging in business" in Tacoma as defined in TMC 6A.30.030.

Goods delivered by a Tacoma seller to a point outside of the city may be deducted from the gross proceeds of sales.

Gross income for the sale of intangibles such as royalties, trademarks, patents or goodwill are allocated 100% to the location of the headquarters or **commercial domicile** of the taxpayer.

## **Apportionment**

**Service & Other Activities.** Gross income taxed under service and other activities shall be apportioned to a city by multiplying service income by a payroll factor (based on the



payroll within the jurisdiction), plus the service income factor (based on the income producing activity attributable for tax purposes within the jurisdiction), divided by two:

$$\frac{\text{Total services income} \times (\text{Payroll Factor} + \text{Service Income Factor})}{2}$$

- Payroll Factor =  $\frac{\text{Total Compensation in City}}{\text{Total Compensation Everywhere}}$

Compensation is paid in the city if:

- (i) The individual is **primarily assigned** within the city;
- (ii) The individual is not primarily assigned to any place of business for the tax period and the **employee performs 50% or more** of his or her service for the tax period in the city; or
- (iii) The individual is not primarily assigned to any place of business for the tax period, the individual does not perform 50% or more of his or her service in any city and the employee resides in the city.

“Primarily assigned” is defined as the business location of the taxpayer where the individual performs his or her duties. Business location must be a physical address, other than a PO Box.

- Service Income Factor=  $\frac{\text{Service Income in City}}{\text{Service Income Everywhere}}$

Service income is in the city if:

- (i) The **customer location** is in the city; or
- (ii) The income producing activity is performed in more than one location and a **greater proportion of the service income producing activity** is performed in the city than in any other location, based on costs of performance, and the taxpayer is not taxable at the customer location; or
- (iii) The **service income producing activity is performed within the city**, and the taxpayer is not taxable in the customer location.



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Other:

Specific provisions also apply to the newspaper and publishing businesses to exempt them from apportionment requirements.

Specific exemptions apply in rare cases of professional employer services such as a shared receptionist services in an office building.

If the company does not have payroll in this city, but has payroll, the payroll factor will be zero and the Total Apportionment Factor is still divided by two. If the company has no payroll whatsoever, the Total Apportionment Factor is divided by one.

**Manufacturing** – see Multiple Activities Tax Credit –TMC 6A.30.070

Revised January 1, 2020

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Revised December 2013

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Revised January 1, 1984

Revised January 1, 1976

Adopted January 1, 1966 (Old Rule #178)