

FORM MO-MSS S-CORPORATION ALLOCATION AND APPORTIONMENT FORM

Use [Form MO-MSS](#) to allocate and apportion income by using the Receipts Factor Apportionment Method or other appropriate method. If utilizing the Receipts Factor Apportionment Method, complete Part 1. Attach Form MO-MSS to Form MO-1120S. Enter the percentage from Part 1, Line 3 on [Form MO-NRS](#) Part 1, Line 1, Column (c). Line 1, Column (b) is computed by multiplying the percentage in Column (c) times the amounts in Column (a). The percentage is also entered in the other lines on Column (c). If a distributive share item is wholly or partially allocated as nonapportionable income, a different percentage will be computed for the item, following the steps listed on Form MO-MSS. As noted on the Form MO-MSS, special methods three to seven may be used. Attach a detailed explanation to the Form MO-1120S when utilizing these methods.

If the corporation owns a percentage of a partnership(s), the partnership factors must be multiplied by the corporation's percentage of ownership, and then added into the corporation's apportionment factors.

APPORTIONMENT ELECTION

Missouri statutes provide a number of methods for determining Missouri taxable income from Missouri sources.

Method Two A Receipts Factor Apportionment — [Section 143.455.2, RSMo](#). See instructions for completing Method Two A.

Method Three Transportation — [Section 143.455.14, RSMo](#).

Method Four Railroad — [Section 143.455.15, RSMo](#).

Method Five Interstate Bridge — [Section 143.455.16, RSMo](#).

Method Six Telephone and Telegraph — [Section 143.455.17, RSMo](#).

Method Seven Other Approved Method — This method can only be used with prior approval from the Missouri Director of Revenue or pursuant to a Missouri regulation creating an alternative industry-specific method under [Section 143.455.13\(2\), RSMo](#). Attach a detailed explanation of how any allocation and apportionment was performed. Either a letter of approval must be attached to the return or the detailed explanation must identify the Missouri regulation that authorizes the industry-specific method used and explain why the taxpayer qualifies for the industry-specific method. As of the date of this publication, the only industry-specific method allowed by Missouri regulation applies to broadcasters under [12 CSR 10-2.260](#). Corporations defined as a broadcaster under 12 CSR 10-2.260 must choose Method Seven.

METHOD TWO A RECEIPTS FACTOR APPORTIONMENT INSTRUCTIONS

A taxpayer must have income from more than one state in order to apportion and allocate income. Income from business activity includes apportionable and nonapportionable income. The taxpayer's income will be allocated and apportioned according to [Section 143.455, RSMo](#). The taxpayer must determine which portion of the taxpayer's federal taxable income constitutes "nonapportionable income." The various items of nonapportionable income are directly allocated to specific states, which may include Missouri. The apportionable income of the taxpayer is divided between states by using the receipts factor. Items of nonapportionable income may be reported on Form MO-MSS.

APPORTIONABLE AND NONAPPORTIONABLE INCOME DEFINED

"Apportionable income" means all income that is apportionable under the Constitution of the United States and is not allocated under the laws of this state. Apportionable income includes, but is not limited to, income arising from transactions and activity in the regular course of the corporation's trade or business. Apportionable income also includes, but is not limited to, income arising from tangible and intangible property if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the corporation's trade or business. "Nonapportionable income" means all income other than apportionable income. The classification of income by the labels customarily given them, such as interest, dividends, rents, and royalties, is not conclusive in determining whether the income is apportionable or nonapportionable income.

TAXABLE IN ANOTHER STATE

A taxpayer is "taxable in another state" if it meets either one of two tests:

(a) if by reason of business activity in another state the taxpayer is subject to one of these taxes: a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(b) if another state has jurisdiction to subject the taxpayer to a net income tax, regardless of whether or not that state imposes such a tax on the taxpayer.

The first test is applicable only if a taxpayer carries on business activities in another state. If the taxpayer voluntarily files and pays one or more of such taxes when not required to do so by the laws of that state or pays a minimal fee for qualification, organization, or for the privilege of doing business in that state, but:

(a) does not engage in business activities in that state; or

(b) does engage in some activity, not sufficient for nexus, and the minimum tax bears no relation to the corporation's activities within such state, the taxpayer is not "taxable" in another state.

The second test applies if the taxpayer's business activities are sufficient to give the state jurisdiction to impose a net income tax under the Constitution and statutes of the United States. Jurisdiction to tax is not present where the state is prohibited from imposing the tax by reason of the provisions of Public Law 86-272, 15 U.S.C.A. Sections 381-385.

LINES 1, 2, AND 3 - RECEIPTS FACTOR

Complete Part 1, Lines 1 through 3.

- The denominator of the receipts factor is generally all gross receipts received by a taxpayer from transactions and activity in the regular course of its trade or business. However, receipts from hedging transactions or from the maturity, redemption, sale, exchange, loan, or other disposition of cash or securities (e.g. stocks, stock options, bonds) must not be included in either the numerator or denominator of the receipts factor. The numerator of the receipts factor is generally all gross receipts in Missouri from transactions and activity in the regular course of the taxpayer's trade or business.



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- **Tangible Personal Property Receipts** from the sale of tangible personal property are in this state if the property is received in Missouri by the purchaser. Receipts from the rental, lease, or license of tangible personal property are in this state to the extent that the tangible personal property is located in Missouri.
- **Real Property Receipts** from the sale, rental, lease, or license of real property are in this state to the extent that the real property is located in Missouri.
- **Services Receipts** from the sale of a service are in this state if and to the extent that the ultimate beneficiary is in Missouri. Generally, the ultimate beneficiary of the service (except for bartering and similar in-kind transactions) is the entity that receives benefit or value from, but does not also receive monetary or credit-based payment in direct connection with, the service at issue (other than refunds, cashback, or discount-equivalents). In the event that the ultimate beneficiary is a corporate or other entity that owns or operates in locations in multiple states, and the extent to which the ultimate beneficiary is located in Missouri cannot reasonably be determined, the extent to which the ultimate beneficiary is located in Missouri may be reasonably approximated as follows: The ratio of the number of Missouri locations, which the ultimate beneficiary owns or operates in, to the number of such locations throughout the United States.
- If the ratio above cannot reasonably be determined, then the ratio of one to the number of states in which the ultimate beneficiary operates.
- If the ratio above cannot reasonably be determined, then fifty percent (50%). A taxpayer will not be subject to an addition to tax for negligence in relying upon this approximation of fifty percent (50%).
- **Rental, Lease, or License of Intangible Property Receipts** from the rental, lease, or license of intangible property are in this state to the extent that the intangible property is used in Missouri. Intangible property that is rented, leased, or licensed and then used in this state in marketing a good or service to a consumer is used in this state if the marketed good or service is purchased by a consumer in this state. Franchise fees or franchise royalties received for the rent, lease, license, or use of a trade name, trademark, service mark, or franchise system, or the right to conduct business activity in a specific geographic area, are receipts in this state to the extent that the franchise is located in this state.
- **Sale of Intangible Property Receipts** from the sale of intangible property are in this state to the extent the intangible property is used in Missouri. If the intangible property sold is a contract right, government license, or similar property that authorizes the holder to conduct a business activity in a specific geographic area, such intangible property is used in Missouri if the geographic area includes all or part of Missouri. If receipts from the intangible property sale are contingent on the productivity, use, or disposition of the intangible property, these receipts shall be treated as receipts from the rental, lease, or license of intangible property. All other receipt from a sale of intangible property shall be excluded from both the numerator and the denominator of the receipts factor.

If the state or states to which to assign receipts cannot be determined, the state or states of assignment must be reasonably approximated and you must attach a detailed statement explaining the basis of the reasonable approximation.

PART 1, LINES 4 THROUGH 10 - ALLOCATION OF NON APPORTIONABLE INCOME

Complete Part 1, Lines 4 through 10 if the taxpayer has nonapportionable income to allocate.

For this purpose "commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed. Rents and royalties from real or tangible personal property, capital gains, interest, or patent or copyright royalties, to the extent that they constitute nonapportionable income shall be allocated as follows:

- (a) Net rents and royalties from real property located in this state are allocable to this state.
- (b) Net rents and royalties from tangible personal property are allocable to this state: (1) if and to the extent that the property is utilized in this state; or (2) in their entirety if the taxpayer's commercial domicile is in

this state and the taxpayer is not organized under the laws of, or taxable in, the state in which the property is utilized. The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all royalty or rental period during the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payor obtained possession.

(c) Capital gains and losses from sales of real property located in this state are allocable to this state.

(d) Capital gains and losses from sales of tangible personal property are allocable to this state if: (1) the property had a situs in this state at the time of the sale; or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(e) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(f) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

(g) Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the royalty payor in this state; or (2) if and to the extent that the patent or copyright is utilized by the royalty payor in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state. A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from patent royalties or copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent or copyright is utilized in the state in which the taxpayer's commercial domicile is located.

METHOD THREE, FOUR, FIVE, OR SIX INSTRUCTIONS

Enter Missouri miles, total miles, and percentage in the Apportionment Election section on **Form MO-MSS**, page 1, if applicable. Enter the resulting mileage percentage on **Form MO-NRS**, Parts 1 and 2, Column (c), unless required to complete Form MO-MSS, Part 1, Lines 3 through 10 as discussed below. If the mileage percentage on Form MO-MSS, Page 1, is inapplicable, attach a detailed explanation of how apportionment and allocation was performed.

If the mileage percentage on Form MO-MSS, Page 1, is inapplicable or if there is any income to be allocated (as opposed to apportioned), the taxpayer must complete Form MO-MSS, Part 1, Lines 3 through 10 and follow the directions on Form MO-MSS, Pages 1 or 2 (as applicable) to arrive at the percentage(s) to be entered on Form MO-NRS, Column (c) for each distributive share item. When completing Form MO-MSS, Part 1, Line 3, substitute the appropriate apportionment percentage, such as the mileage percentage (if applicable), for the Receipts Factor. When completing Form MO-MSS, Part 1, Lines 4 through 10 (including any attached table for distributive share items not listed on Form MO-MSS, Part 1, Lines 4 through 9), enter gross income allocated (as opposed to apportioned) everywhere and gross income allocated to Missouri, respectively, as well as related expenses. Attach a detailed explanation supporting any allocation (as opposed to apportionment) of income.

METHOD SEVEN INSTRUCTIONS

This method can only be used with prior approval from the Missouri Director of Revenue or pursuant to a Missouri regulation creating an alternative industry-specific method under **Section 143.455.13(1), RSMo**. Attach a detailed explanation of how any allocation and apportionment was performed. Either a letter of approval must be attached to the return or the detailed explanation must identify the Missouri regulation that authorizes the industry-specific method used and explain why the taxpayer qualifies for the industry-specific method. The only industry-specific method currently allowed by Missouri regulation applies to broadcasters under **12 CSR 10-2.260**. Corporations defined as a broadcaster under 12 CSR 10-2.260 must choose Method Seven.

Complete Form MO-MSS, Part 1, Lines 3 through 12 and follow the directions on Form MO-MSS, Pages 1 or 2 (as applicable) to arrive at the percentage(s) to be entered on Form MO-NRS, Column (c) for each distributive share item. When completing Form MO-MSS, Part 1, Line 3, substitute the appropriate apportionment percentage (without taking into account allocation of income) for the Receipts Factor. When completing Form MO-MSS, Part 1, Lines 4 through 10 (including any attached table for distributive share items not listed on Form MO-MSS, Part 1, Lines 4 through 9), enter gross income allocated (as opposed to apportioned) everywhere and gross income allocated to Missouri, respectively, as well as related expenses. Include on the detailed explanation attachment support for any allocation (as opposed to apportionment) of income.



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