

Title 12—DEPARTMENT OF REVENUE
Division 10—Director of Revenue
Chapter 2—Income Tax

Proposed Rule

12 CSR 10-2.260 Apportionment Method for Broadcasters (Beginning on or After January 1, 2020)

PURPOSE: This rule applies section 143.455.13(1), RSMo to implement an alternative corporation income tax apportionment method for broadcasters.

(1) For any taxpayer that is a broadcaster as defined in subsection(2)(A) of this rule and files its original income tax return on or after January 1, 2020, shall use the apportionment method set forth in section (5) of this rule to compute its Missouri taxable income from sources in this state.

(2) Definitions.

- (A) “Broadcaster” is a taxpayer that is a television broadcast network, a cable program network, or a television distribution company. The term “broadcaster” does not include a platform distribution company.
- (B) “Broadcast customer” is a person, corporation, partnership, limited liability company, or other entity, such as an advertiser or a platform distribution company, that has a direct connection or contractual relationship with the broadcaster under which revenue is derived by the broadcaster.
- (C) “Business customer” is a customer that is a business operating in any form, including an individual who operates a business through the form of a sole proprietorship. Sales to a non-profit organization, to a trust, to the U.S. government, to any foreign, state, or local government, or to any agent or instrumentality of such government shall be treated as sales to a business customer and shall be apportioned consistent with the rules that apply to such sales.
- (D) “Commercial domicile” is the principal place from which the trade or business of the business entity is directed or managed.
- (E) “Corporation” is an entity defined in section 143.441.1(1), RSMo.
- (F) “Film programming” is one (1) or more performance, event, or production, or segments of performances, events, or productions, intended to be distributed for visual and/or auditory perception, including, but not limited to, news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works.
- (G) “Income tax return” is the Missouri Corporation Income Tax Return for the taxable year.
- (H) “Individual customer” is any customer who is not a business customer as defined in subsection (2)(C) of this rule.
- (I) “Original return” is the initial income tax return filed for the taxable year, and does not mean an amended income tax return filed for a taxable year for which a corporation has previously filed any income tax return.

(J) “Platform distribution company” is a cable service provider, a direct broadcast satellite system, an internet content distributor, or any other distributor that directly charges viewers for access to any film programming.

(K) “Taxable year” is the same period the corporation uses for reporting its federal income tax liability under the Internal Revenue Code of 1986, as amended.

(3) Sourcing of Receipts from Broadcast Advertising Services. Notwithstanding anything herein to the contrary, receipts from a broadcaster’s sale of advertising services to a broadcast customer are sourced to Missouri if the commercial domicile of the broadcast customer is in Missouri. For purposes of this provision, “advertising services” means an agreement to include the broadcast customer’s advertising content in the broadcaster’s film programming.

(4) Sourcing of Receipts from Licenses of Broadcasting Intangibles. Where a broadcaster grants a license to a broadcast customer for the right to use film programming, the licensing fees paid by the licensee for such right are sourced to Missouri to the extent that the broadcast customer is located in Missouri. In the case of business customers, the broadcast customer’s location shall be determined using the broadcast customer’s commercial domicile. In the case of individual customers, the broadcast customer’s location shall be determined using the address of the broadcast customer listed in the broadcaster’s records.

(5) Alternative Apportionment Method for Broadcasters. A taxpayer who is a broadcaster shall apportion its apportionable income to this state by multiplying the net income by a fraction, the numerator of which is the sum of the taxpayer’s receipts from broadcast advertising services sourced to Missouri under section (3) of this rule plus the taxpayer’s receipts from licenses of broadcast intangibles sourced to Missouri under section (4) of this rule and the denominator of which is the sum of the taxpayer’s total receipts from broadcast advertising services from all sources plus the sum of the taxpayer’s total receipts from licenses of broadcast intangibles from all sources.

AUTHORITY: section 143.961, RSMo 2016, and section 143.455.13, RSMo Supp. 2020. Original rule filed Sept 8, 2020.

PUBLIC COST: This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Missouri Department of Revenue, Administration Division, 301 W High Street, Room 218, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.