

### Part 3

## Allocation and Apportionment of Income - Utah UDITPA Provisions

#### **59-7-302 Definitions -- Determination of taxpayer status.**

- (1) As used in this part, unless the context otherwise requires:
- (a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.
  - (b) "Airline" means the same as that term is defined in Section 59-2-102.
  - (c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.
  - (d) "Business income" means income that:
    - (i) is apportionable under the United States Constitution and is not allocated under the laws of this state, including income arising from:
      - (A) a transaction or activity in the regular course of the taxpayer's trade or business; and
      - (B) tangible and intangible property, if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business; or
    - (ii) would be allocable to this state under the United States Constitution, but is apportioned rather than allocated in accordance with the laws of this state.
  - (e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.
  - (f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.
  - (g) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:
    - (i) NAICS Code 211120, Crude Petroleum Extraction;
    - (ii) NAICS Industry Group 2121, Coal Mining;
    - (iii) NAICS Industry Group 2212, Natural Gas Distribution;
    - (iv) NAICS Subsector 311, Food Manufacturing;
    - (v) NAICS Industry Group 3121, Beverage Manufacturing;
    - (vi) NAICS Code 327310, Cement Manufacturing;
    - (vii) NAICS Subsector 482, Rail Transportation;
    - (viii) NAICS Code 512110, Motion Picture and Video Production;
    - (ix) NAICS Subsection 515, Broadcasting (except Internet); or
    - (x) NAICS Code 522110, Commercial Banking.
  - (h)
    - (i) Except as provided in Subsection (1)(h)(ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.
    - (ii) "Mobile flight equipment" does not include:
      - (A) a spare engine; or
      - (B) tangible personal property described in Subsection 59-2-102(26) owned by an air charter service or an air contract service.
  - (i) "Nonbusiness income" means all income other than business income.
  - (j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).
  - (k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:
    - (i) is not a sales factor weighted taxpayer;

- (ii) does not meet the definition of an optional apportionment taxpayer; or
- (iii) for a taxable year beginning on or after January 1, 2020:
  - (A) meets the definition of an optional apportionment taxpayer; and
  - (B) apportioned business income using the method described in Subsection 59-7-311(4) during the previous taxable year.
- (l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.
- (m) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.
- (n) "Sales factor weighted taxpayer" means a taxpayer described in Subsection (2).
- (o) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.
- (p) "Transportation revenue" means revenue an airline earns from:
  - (i) transporting a passenger or cargo; or
  - (ii) from miscellaneous sales of merchandise as part of providing transportation services.
- (q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:
  - (i) during the airline's tax period; and
  - (ii) from flight stages that originate or terminate in this state.
- (2)
  - (a) A taxpayer is a sales factor weighted taxpayer if the taxpayer apportioned business income using the method described in Subsection 59-7-311(2) during the previous taxable year or if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:
    - (i) a NAICS code within NAICS Sector 21, Mining;
    - (ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;
    - (iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except:
      - (A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;
      - (B) NAICS Industry Group 3333, Commercial and Service Industry Machinery Manufacturing;
      - (C) NAICS Subsector 334, Computer and Electronic Product Manufacturing; and
      - (D) NAICS Code 336111, Automobile Manufacturing;
    - (iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;
    - (v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or
    - (vi) a NAICS code within NAICS Sector 52, Finance and Insurance.
  - (b) A taxpayer shall determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.
  - (c) For purposes of making the determination required by Subsection (2)(a), total sales everywhere include only the total sales everywhere:
    - (i) as determined in accordance with this part; and
    - (ii) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a).
- (3)

- (a) A taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (3)(b) is greater than .50.
- (b) To calculate the average described in Subsection (3)(a), a taxpayer shall:
  - (i) calculate the following two fractions:
    - (A) the property factor fraction as described in Subsection 59-7-312(3); and
    - (B) the payroll factor fraction as described in Subsection 59-7-315(3);
  - (ii) add together the fractions described in Subsection (3)(b)(i); and
  - (iii) divide the sum calculated in Subsection (3)(b)(ii):
    - (A) except as provided in Subsection (3)(b)(iii)(B), by two; or
    - (B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.
- (c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.
- (4) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Amended by Chapter 234, 2025 General Session

#### **59-7-303 Apportionable income.**

- (1) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion the taxpayer's adjusted income as provided in this part.
- (2) Any taxpayer having income solely from business activity taxable within this state shall allocate or apportion the taxpayer's entire adjusted income to this state.
- (3)
  - (a) Notwithstanding Subsections (1) and (2), for a taxable year beginning on or after January 1, 2022, a taxpayer may elect to treat all of the taxpayer's income from sales of intangible property as business income.
  - (b) A taxpayer shall make the election described in Subsection (3)(a) on or before the deadline for filing a return under an extension of time described in Section 59-7-505.
  - (c) An election under this Subsection (3) is irrevocable.

Amended by Chapter 228, 2022 General Session

#### **59-7-305 When taxable in another state.**

For purposes of allocation and apportionment of income under this part, a taxpayer is taxable in another state if:

- (1) in that state the taxpayer is subject to 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
- (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

Renumbered and Amended by Chapter 2, 1987 General Session

**59-7-306 Allocation of certain nonbusiness income.**

Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in Sections 59-7-307 through 59-7-310.

Renumbered and Amended by Chapter 2, 1987 General Session

**59-7-307 Allocation of rents and royalties.**

- (1) To the extent that the following constitute nonbusiness income:
  - (a) net rents and royalties from real property located in this state are allocable to this state; and
  - (b) net rents and royalties from tangible personal property are allocable to this state:
    - (i) if and to the extent that the property is utilized in this state; or
    - (ii) 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.
- (2) 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 rental or royalty periods in 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 payer obtained possession.

Amended by Chapter 83, 1994 General Session

**59-7-308 Allocation of capital gains and losses.**

To the extent that the following constitute nonbusiness income:

- (1) capital gains and losses from sales of real property located in this state are allocable to this state;
- (2) capital gains and losses from sales of tangible personal property are allocable to this state if:
  - (a) the property had a situs in this state at the time of the sale; or
  - (b) 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; and
- (3) 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.

Amended by Chapter 83, 1994 General Session

**59-7-309 Allocation of interest and dividends.**

To the extent they constitute nonbusiness income, interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

Amended by Chapter 83, 1994 General Session

**59-7-310 Allocation of patent and copyright royalties.**

- (1) To the extent they constitute nonbusiness income, patent and copyright royalties are allocable to this state:
  - (a) if and to the extent that the patent or copyright is utilized by the payer in this state; or

- (b) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.
- (2) 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. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.
- (3) 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 copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

Amended by Chapter 83, 1994 General Session

**59-7-311 Method of apportionment of business income.**

- (1) For a taxable year, a taxpayer shall apportion all business income to this state by multiplying the business income by a fraction calculated as provided in this section.
- (2) Subject to the other provisions of this part, a sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using a fraction where:
  - (a) the numerator of the fraction is the sales factor as calculated under Section 59-7-317; and
  - (b) the denominator of the fraction is one.
- (3) Subject to the other provisions of this part, an optional apportionment taxpayer that is not a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state using one of the following fractions:
  - (a) the fraction described in Subsection (4); or
  - (b) the fraction where:
    - (i) the numerator of the fraction is the sum of:
      - (A) the property factor as calculated under Section 59-7-312;
      - (B) the payroll factor as calculated under Section 59-7-315; and
      - (C) the sales factor as calculated under Section 59-7-317; and
    - (ii) the denominator of the fraction is three.
- (4)
  - (a) Subject to other provisions of this part, a phased-in sales factor weighted taxpayer shall calculate the fraction for apportioning business income to this state as provided in Subsections (4)(b) through (d).
  - (b) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019:
    - (i) the numerator of the fraction is the sum of:
      - (A) the property factor as calculated under Section 59-7-312;
      - (B) the payroll factor as calculated under Section 59-7-315; and
      - (C) the sales factor as calculated under Subsection (4)(e)(i); and
    - (ii) the denominator of the fraction is six.
  - (c) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020:
    - (i) the numerator of the fraction is the sum of:
      - (A) the property factor as calculated under Section 59-7-312;
      - (B) the payroll factor as calculated under Section 59-7-315; and
      - (C) the sales factor as calculated under Subsection (4)(e)(ii); and

- (ii) the denominator of the fraction is 10.
- (d) For a taxable year that begins on or after January 1, 2021, a phased-in sales factor weighted taxpayer shall calculate the fraction as described in Subsection (2).
- (e)
  - (i) For the taxable year that begins on or after January 1, 2019, but begins on or before December 31, 2019, the sales factor shall be:
    - (A) calculated as described in Section 59-7-317; and
    - (B) multiplied by four.
  - (ii) For the taxable year that begins on or after January 1, 2020, but begins on or before December 31, 2020, the sales factor shall be:
    - (A) calculated as described in Section 59-7-317; and
    - (B) multiplied by eight.
- (5)
  - (a) The taxpayer shall determine the method for calculating the fraction for apportioning business income to this state under this section on or before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.
  - (b) The method described in Subsection (5)(a) is in effect for the taxable year.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for a taxpayer to make the election required by Subsection (3).

Amended by Chapter 456, 2018 General Session

Amended by Chapter 471, 2018 General Session

**59-7-312 Property factor for apportionment of business income -- Mobile flight equipment of an airline.**

- (1) Except as provided in Subsections (2) and (3), the property factor is a fraction:
  - (a) the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period; and
  - (b) the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.
- (2) The average value of an airline's real and tangible personal property owned or rented and used in this state attributable to mobile flight equipment for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by multiplying:
  - (a) the total average value of the airline's mobile flight equipment of the aircraft type owned or rented and used during the tax period; and
  - (b) a fraction:
    - (i) the numerator of which is the Utah revenue ton miles for the aircraft type; and
    - (ii) the denominator of which is the airline revenue ton miles for the aircraft type.
- (3)
  - (a) For purposes of Subsection 59-7-302(3)(b)(i)(A) and subject to Subsection (3)(b), the property factor is a fraction:
    - (i) the numerator of which is the value of the property in this state that is attributable to economic activities that are classified in an excluded NAICS code; and
    - (ii) the denominator of which is the value of all property in this state.
  - (b) A taxpayer shall exclude property from the calculation of the property factor fraction described in Subsection (3)(a) if the property may be attributed to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes.

Amended by Chapter 456, 2018 General Session  
Amended by Chapter 471, 2018 General Session

**59-7-313 Valuation of property for inclusion in property factor.**

- (1) Property owned by the taxpayer is valued at its original cost.
- (2) Property rented by the taxpayer is valued at eight times the net annual rental rate.
- (3) Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.
- (4) Property owned or rented by an airline is valued as provided in this section, subject to the calculation required by Subsection 59-7-312(2).

Amended by Chapter 283, 2008 General Session

**59-7-314 Averaging property values for inclusion in property factors.**

- (1) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period or averaging of monthly values during the tax period if monthly averaging more clearly reflects the average value of the taxpayer's property.
- (2) The average value of property of an airline is valued as provided in this section, subject to the calculation required by Subsection 59-7-312(2).

Amended by Chapter 283, 2008 General Session

**59-7-315 Payroll factor for apportionment of business income -- Compensation of flight personnel by an airline.**

- (1) Except as provided in Subsections (2) and (3), the payroll factor is a fraction:
  - (a) the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation; and
  - (b) the denominator of which is the total compensation paid everywhere during the tax period.
- (2) The total amount paid in this state during the tax period by an airline for compensation attributable to the compensation of flight personnel for purposes of the numerator of the fraction described in Subsection (1) shall be calculated for each aircraft type by multiplying:
  - (a) the total amount paid during the tax period by the airline to flight personnel for compensation for the aircraft type; and
  - (b) a fraction:
    - (i) the numerator of which is the Utah revenue ton miles for the aircraft type; and
    - (ii) the denominator of which is the airline revenue ton miles for the aircraft type.
- (3)
  - (a) For purposes of Subsection 59-7-302(3)(b)(i)(B) and subject to Subsection (3)(b), the payroll factor is a fraction:
    - (i) the numerator of which is the amount of the payroll in this state that is attributable to economic activities that are classified in an excluded NAICS code; and
    - (ii) the denominator of which is the total amount of the payroll in this state.
  - (b) A taxpayer engaged in economic activities that are classified in an excluded NAICS code shall exclude an individual's payroll from the calculation of the payroll factor fraction described in Subsection (3)(a) if the individual's payroll may be attributed:
    - (i) to economic activities in both excluded NAICS codes and NAICS codes that are not excluded NAICS codes; or

- (ii) to providing management, information technology, finance, accounting, legal, or human resource services.

Amended by Chapter 456, 2018 General Session

Amended by Chapter 471, 2018 General Session

**59-7-316 Determination of compensation for inclusion in payroll factor.**

- (1) Compensation is paid in this state if:
  - (a) the individual's service is performed entirely within the state;
  - (b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or
  - (c) some of the service is performed in the state and:
    - (i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or
    - (ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.
- (2) Whether compensation paid by an airline is paid in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-315(2).

Amended by Chapter 283, 2008 General Session

***Superseded 1/1/2026***

**59-7-317 Sales factor for apportionment of business income -- Transportation revenues of an airline.**

- (1) Except as provided in Subsection (2), the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.
- (2) The total sales of an airline in this state during the tax period attributable to transportation revenues in this state during the tax period for purposes of the numerator of the fraction described in Subsection (1) shall be calculated by determining the product of:
  - (a) the total transportation revenues during the tax period of the airline; and
  - (b) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles.

Amended by Chapter 283, 2008 General Session

***Effective 1/1/2026***

**59-7-317 Sales factor for apportionment of business income -- Transportation revenue of an airline -- Sales of a financial institution.**

- (1) As used in this section:
  - (a)
    - (i) "Finance lease" means a lease transaction that is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property.
    - (ii) "Finance lease" includes a direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases, or any



other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles.

(b) "Financial institution" means:

- (i) a corporation or other business entity registered under state law as a bank holding company, under the Federal Bank Holding Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended;
- (ii) a national bank organized and existing as a national bank association in accordance with the National Bank Act, 12 U.S.C. Secs. 21 et seq.;
- (iii) a savings association or federal savings bank as defined in 12 U.S.C. Secs. 1813(b)(1) and (2);
- (iv) a bank, industrial loan corporation, or thrift institution incorporated or organized under the laws of any state;
- (v) a corporation organized under the provisions of 12 U.S.C. Secs. 611 through 631;
- (vi) an agency or a branch of a foreign bank as defined in 12 U.S.C. Sec. 3101;
- (vii) a production credit association organized under the Federal Farm Credit Act of 1933, if all of the production credit association's stock held by the Federal Production Credit Corporation has been retired;
- (viii) a corporation, other than an insurance company taxable under Chapter 9, Taxation of Admitted Insurers, for which voting stock is more than 50% owned, directly or indirectly, by any person described in Subsections (1)(b)(i) through (1)(b)(vii);
- (ix) a corporation or other business entity that derives from finance leases more than 50% of the corporation's or the business entity's total gross income for financial accounting purposes:
  - (A) using the average of the gross income in the current tax year and immediately preceding two tax years; and
  - (B) disregarding gross income from incidental or occasional transactions; or
- (x) another person, other than an insurance company, a credit union exempt from the corporation franchise tax under Section 59-7-102, a real estate broker, or a securities dealer, that derives more than 50% of the person's gross income, excluding non-recurring, extraordinary items, from activities that a person described in Subsections (1)(b)(ii) through (vii) and (1)(b)(ix) is authorized to transact unless the commission excludes the person upon receipt of proof, by clear and convincing evidence, that the income-producing activity of the person is not in substantial competition with the persons described in Subsections (1)(b)(ii) through (vii) and (1)(b)(ix).

(c)

- (i) "Sales from investment activities and assets and trading activities and assets" means receipts from interest, dividends, a net gain, but not less than zero, or other income from an investment security, a trading account asset, federal funds, a security purchased and sold under an agreement to resell or repurchase, an option, a future contract, a forward contract, equities, a foreign currency transaction, or a notional principal contract, such as swaps.
- (ii) "Sales from investment activities and assets and trading activities and assets" includes:
  - (A) the amount by which interest from federal funds sold and securities purchased under resale agreements exceeds interest expense on federal funds purchased and securities sold under repurchase agreements; and
  - (B) the amount by which interest, dividends, gains, and other income from foreign currency transactions and trading assets and activities, including assets and activities in the matched book and arbitrage book, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends, and losses from trading assets and activities.

- (iii) "Sales from investment activities and assets and trading activities and assets" does not include:
  - (A) receipts from the lease of real property;
  - (B) receipts from the lease of tangible personal property;
  - (C) interest from a loan secured by real property;
  - (D) interest from a loan not secured by real property;
  - (E) a net gain from the sale of a loan;
  - (F) receipts from a credit card receivable;
  - (G) a net gain from the sale of a credit card receivable;
  - (H) a credit card issuer's reimbursement fees;
  - (I) receipts from a merchant discount;
  - (J) a loan servicing fee;
  - (K) receipts from a service; or
  - (L) other receipts not addressed in Subsection (1)(c)(i) or Subsections (1)(c)(iii)(A) through (K).
- (2) Except as provided in Subsections (3) and (4), the sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.
- (3) The total sales of an airline in this state during the tax period attributable to transportation revenue in this state during the tax period for purposes of the numerator of the fraction described in Subsection (1) shall be calculated by determining the product of:
  - (a) the total transportation revenue during the tax period of the airline; and
  - (b) a fraction, the numerator of which is the Utah revenue ton miles and the denominator of which is the airline revenue ton miles.
- (4)
  - (a) Except as provided in Subsection (4)(b), the commission shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish the sales to be included in the sales factor fraction of a financial institution.
  - (b) In calculating the sales factor of a financial institution:
    - (i) the numerator may not include sales from investment activities and assets and trading activities and assets; and
    - (ii) the denominator shall include sales from investment activities and assets and trading activities and assets.

Amended by Chapter 342, 2025 General Session

**59-7-318 Sales of tangible personal property.**

- (1) Sales of tangible personal property are in this state if:
  - (a) the property is delivered or shipped to a purchaser, other than the United States Government, within this state regardless of the f.o.b. point or other conditions of the sale; or
  - (b)
    - (i) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state; and
    - (ii)
      - (A) the purchaser is the United States Government; or
      - (B) the taxpayer is not taxable in the state of the purchaser.
- (2) Whether sales of tangible personal property by an airline are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Amended by Chapter 283, 2008 General Session

**59-7-319 Circumstances under which a receipt, rent, royalty, or sale is considered to be in this state.**

- (1)
  - (a) Subject to Subsection (1)(b), as used in this section, "regulated investment company" is as defined in Section 851(a), Internal Revenue Code, in effect for the taxable year.
  - (b) "Regulated investment company" includes a trustee or sponsor of an employee benefit plan that has an account in a regulated investment company.
- (2) The following are considered to be in this state:
  - (a) a rent in connection with:
    - (i) real property if the real property is in this state; or
    - (ii) tangible personal property if the tangible personal property is in this state;
  - (b) a royalty in connection with real property if the real property is in this state;
  - (c) a sale in connection with real property if the real property is in this state; or
  - (d) other income in connection with real property or tangible personal property if the real property or tangible personal property is in this state.
- (3)
  - (a) Subject to Subsection (3)(b), a receipt from the performance of a service is considered to be in this state if the purchaser of the service receives a greater benefit of the service in this state than in any other single:
    - (i) foreign country; or
    - (ii) state, as defined in Section 68-3-12.5.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule prescribe the circumstances under which a purchaser of a service receives a greater benefit of the service in this state than in any other single:
    - (i) foreign country; or
    - (ii) state, as defined in Section 68-3-12.5.
- (4)
  - (a) Subject to Subsection (4)(b), a receipt in connection with intangible property is considered to be in this state if the intangible property is used in this state.
  - (b) If the intangible property described in Subsection (4)(a) is used in this state and outside this state, a receipt in connection with the intangible property shall be apportioned to this state in accordance with Subsection (4)(c).
  - (c) For purposes of Subsection (4)(b), for a taxable year the percentage of a receipt in connection with intangible property that is considered to be in this state is the percentage of the use of the intangible property that occurs in this state during the taxable year.
- (5)
  - (a) Notwithstanding Subsections (2) through (4), a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of management, distribution, or administration services to, or on behalf of a regulated investment company, is considered to be in this state:
    - (i) to the extent that shareholders of the regulated investment company are domiciled in the state; and
    - (ii) as provided in this Subsection (5).

- (b) For purposes of Subsection (5)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:
  - (i) the taxpayer's total dollar amount of sales of the services; and
  - (ii) a fraction, the numerator of which is the average of the sum of the beginning of the year and the end of year balance of shares owned by the investment company shareholders domiciled in this state and the denominator of which is the average of the sum of the beginning of the year and end of year balance of shares owned by the investment company shareholders.
- (c) A separate computation shall be made to determine the sales for each investment company.
- (6)
  - (a) Notwithstanding Subsections (2) through (4) and subject to Subsection (6)(b), the following sales are considered to be in this state to the extent that customers of a securities brokerage business are domiciled in the state:
    - (i) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer if that taxpayer is primarily engaged in providing a service in this state to a regulated investment company; or
    - (ii) a sale, other than a sale of tangible personal property, derived, directly or indirectly, from the sale of a securities brokerage service by a taxpayer that is an affiliate of a taxpayer that provides a service in this state to a regulated investment company.
  - (b) For purposes of Subsection (6)(a), the amount of a sale, other than a sale of tangible personal property, that is considered to be in this state is calculated by determining the product of:
    - (i) the taxpayer's total dollar amount of sales of securities brokerage services; and
    - (ii) a fraction, the numerator of which is the receipts from securities brokerage services from customers of the taxpayer domiciled in this state, and the denominator of which is the receipts from securities brokerage services from all customers of the taxpayer.
- (7) Whether sales by an airline, other than sales of tangible personal property, are in this state is determined as provided in this section, subject to the calculation required by Subsection 59-7-317(2).

Amended by Chapter 418, 2019 General Session

**59-7-320 Equitable adjustment of standard allocation or apportionment.**

Notwithstanding any other provision of this part, if the allocation and apportionment provisions of this part do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

- (1) separate accounting;
- (2) the exclusion of any one or more of the factors;
- (3) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or
- (4) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

Amended by Chapter 225, 2005 General Session

**59-7-321 Construction.**

This part shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Renumbered and Amended by Chapter 2, 1987 General Session