

**59-7-115 Section 336(e), Internal Revenue Code -- Elections.**

- (1) Transactions for which an election has been made for federal purposes under Section 336(e), Internal Revenue Code, shall be treated as provided in this section. An election is not available for state purposes unless an election is made for federal purposes.
- (2) If an election is made under Section 336(e), Internal Revenue Code, the following shall apply:
  - (a) if the corporation is treated for federal purposes as having disposed of all of its assets and is a member of a unitary group immediately preceding the date of sale, the corporation shall be included in a combined return to the extent of its income through the date of sale, and the gain or loss on the deemed disposal of assets shall be included in the combined income of the unitary group;
  - (b) if the corporation is treated for federal purposes as having disposed of all of its assets and is not a member of a unitary group immediately preceding the date of sale, the corporation shall file a short period return for the period ending on the date of sale and shall include in such return the gain or loss on the deemed disposal of assets in its adjusted income; and
  - (c) any gain or loss which is not recognized for federal purposes on stock sold, exchanged, or distributed by a corporation pursuant to Section 336(e), Internal Revenue Code, may not be included in adjusted income.
- (3) There is a rebuttable presumption that the gain or loss on the deemed disposition of assets constitutes business income.
- (4) The new basis of assets of the corporation which is treated as having disposed of its assets shall be the same as determined for federal purposes.
- (5) The corporation which is treated as having disposed of its assets shall be treated as a new corporation as of the day after the date of sale.
- (6) The commission may prescribe such rules as necessary to provide for the equitable treatment of any transaction subject to Section 336(e), Internal Revenue Code.

Repealed and Re-enacted by Chapter 169, 1993 General Session