

**12C-1.0151 Apportionment for Special Industries.**

(1) Section 220.151, F.S., states that a taxpayer providing transportation services (transportation company), or an insurance company, must apportion income to Florida using a single-factor formula, in lieu of the three-factor formula used in the general apportionment method.

(2) Transportation Companies.

(a)1. Definition of taxpayer providing transportation services. A taxpayer providing transportation services is a business whose income is derived primarily from transporting people or goods from one location to another.

2. Corporations providing the following services, notwithstanding others, are not considered to be transportation companies:

a. Vessels carrying passengers to international waters where passengers cannot disembark from the vessel at points other than the origination point (cruises to nowhere);

b. Charter fishing boats;

c. Party boats;

d. Sightseeing rides on helicopters, airplanes, trolley cars, buses, or trains. However, charter bus lines and charter flight companies are considered to be transportation companies.

e. Delivery services in connection with the sale of tangible personal property. For example, a furniture company that delivers the furniture it sold is not a transportation company. Corporations whose primary business activity is the delivery of goods are transportation companies, whether or not the deliveries are for goods of affiliated or unrelated corporations.

f. Corporations leasing transportation equipment. A corporation leasing transportation equipment is not a transportation company and must use the general three-factor formula of apportionment, unless it petitions the Department to use an alternate method of apportionment as provided in section 220.152, F.S., and rule 12C-1.0152, F.A.C., and is granted permission to do so. The method for calculating the sales factor and the property factor for corporations leasing aircraft is specifically described in paragraph 12C-1.0153(4)(d) and subparagraph 12C-1.0155(2)(d)2., F.A.C.

3. For purposes of apportionment under section 220.151, F.S., corporations which own, lease, or charter vessels that carry passengers to international waters, and dock in ports (other than the origination point) where passengers can disembark, will be deemed to be transportation companies.

4. For tax years beginning on or after January 1, 1989, the term “taxpayer furnishing transportation services” in Section 220.151, F.S., includes taxpayers engaged exclusively in interstate commerce. Transportation companies that deliver or pick up goods or passengers in this state, as well as corporations that do not have a point of origin or termination within this state, are subject to the Florida Income Tax Code whenever they have revenue miles in Florida.

(b) Mileage.

1. Air mail, air express cargo, and passenger excess baggage shall be considered freight for the purpose of computing freight revenue miles and gross receipts from freight transportation.

2. “Dead miles” for which no revenue is earned are not included in computing the apportionment factor. For example, if a common carrier hauls freight from Miami to Atlanta and returns to Miami without any freight, the mileage from Atlanta to Miami is not included in the apportionment factor. Only the mileage from Miami to Atlanta is considered revenue miles.

(c) Apportionment Factor. The business income of a transportation company providing transportation services, partially or wholly in interstate or foreign commerce, shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the revenue miles of the taxpayer in this state and the denominator of which is the revenue miles of the taxpayer everywhere.

1. Example (1): Corporation R is a Florida-based air carrier providing charter ambulance and passenger services anywhere in the United States. During R’s taxable year ended December 31, 1992, its records of operations disclosed it carried passengers a total of 510,000 revenue miles of which 310,000 were within Florida. The apportionment fraction is computed as follows:

$$\frac{\text{Passenger revenue miles: } 310,000 \text{ (Florida)}}{510,000 \text{ (Everywhere)}} = .607843$$

2. Example (2): Assume the same facts as in Example (1) except that Corporation R provided charter cargo service in addition to passenger service. Its records disclose a total of 16,000 ton miles of freight were carried, of which 8,000 ton miles were within Florida. Its gross revenue from passenger service was \$45,000 and gross revenue from cargo services was \$9,600. The

apportionment fraction is computed as follows:

Step 1. Determine relative gross receipts from passenger and freight transportation.

Passenger:

\$45,000 = .824176

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\$54,600

Freight:

\$9,600 = .175824

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\$54,600

Step 2. Compute the weighted apportionment fraction:

Passenger:

310,000 (Florida) .824176 = .500970

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510,000 (Everywhere)

Freight:

8,000 (Florida) .175824 = .087912

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16,000 (Everywhere)

Total apportionment fraction = .588882

(3) Insurance companies.

(a)1. An insurance company must determine the premium written for reinsurance accepted in respect to properties and risks in Florida on the basis of the proportion which premiums written for reinsurance accepted from companies resident in or having a regional home office in Florida bears to premiums written for reinsurance accepted from all sources.

2. For purposes of this subsection, the "principal source of premiums" is defined as the majority (greater than 50 percent) of premium dollars received.

(b) If the principal source of premiums written by an insurance company is not for premiums for reinsurance accepted by it, the adjusted federal taxable income is apportioned to Florida by multiplying it by a fraction, the numerator of which is the direct premiums written for insurance upon properties and risks in Florida and the denominator of which is the direct premiums written for insurance upon properties and risks everywhere.

(c) Deposit-type funds, as separately listed on Schedule T of the Annual Statement filed with the Florida Office of Insurance Regulation, are not direct premiums written and therefore are not included in the apportionment factor calculation of an insurance company.

(4) Consolidated returns. See paragraphs 12C-1.015(7)(d) and (e), F.A.C., for the computation of the apportionment factor when consolidated returns are filed for affiliated groups that include transportation companies or insurance companies.

*Rulemaking Authority 213.06(1), 220.51 FS. Law Implemented 220.151 FS. History—New 5-17-94, Amended 3-18-96, 10-2-01.*