



SUBJECT: Applying for an Alternative Apportionment Method under Seattle Municipal Code Section 5.45.081(G)(4) and RCW 35.102.130.

SCOPE: The purpose of this Procedure is to provide procedural guidance to the public and Department personnel. It is a guideline issued to assist in the administration of laws and regulations by providing guidance that may be followed in order to comply with the law. It is effective until superseded or modified by a change in statute, regulation, court decision, or another Departmental guideline.

The State imposed a prescribed two factor apportionment method consisting of a payroll and receipts factor effective January 1, 2008. The model ordinance contained an option to request an alternative apportionment method when it could be established that the prescribed two factor method does not clearly reflect the extent of the taxpayer's activity within the City.

The SMC states that if the allocation and apportionment provisions do not fairly represent the extent of the taxpayer's business activity within the City, the taxpayer may petition for, or the department may require, with respect to all of the taxpayer's activity to use an alternative method:

- A. Separate accounting;
- B. The use of a single factor;
- C. The inclusion of one or more additional factors that will fairly represent the taxpayer's business activity in the city; or
- D. The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

The purpose of this document is to provide a procedure for a taxpayer to request use of an alternative apportionment method set forth in SMC 5.45.081 if the taxpayer believes that the statutory formula does not fairly represent the extent of the taxpayer's business activities in Seattle.

Please note, this is a two-part test. The party requesting to use an alternative apportionment method must be able to establish that the prescribed two factor method does not fairly represent the extent of the taxpayer's business activities in Seattle, and it must be able to establish that the requested method does more fairly represent the extent of the taxpayers business activities in Seattle.

WHERE TO FILE THE APPLICATION

The Application must be filed separately and not attached to a tax return being filed. Mail the Application to the following address:

Mark Watterson, Tax Audit Manager
City of Seattle
700 5th Avenue, Suite 4250
P.O Box 34214
Seattle, WA 98124

CONTENT OF APPLICATION

The Application must set forth a complete statement of the facts and reasons relating to the request to change the prescribed apportionment method currently used by the taxpayer.

1. Full name and address, and as applicable, taxpayer's Seattle customer number of the taxpayer applying for the change in allocation or apportionment method.
2. The taxpayer's tax year.
3. The tax year the taxpayer proposes the change to be effective.
4. If applicable, the approximate number of years that the present apportionment method has been used in Seattle.
5. A complete and precise statement of the reasons for the modification requested, including why the present method does not fairly represent the activities of the taxpayer within Seattle and how the proposed method does fairly represent the activities of the taxpayer in Seattle.
6. Evidence supporting the taxpayer's Application including any court decisions on the matter, copies of all contracts, deeds, agreements, instruments, or other documents which evidence the necessity for the modification. Do not send originals.
7. Any other relevant information that the taxpayer believes may have a bearing on the Department's decision about whether to grant the apportionment method requested.

The Application must also answer the following questions:

8. Is the proposed apportionment method to be used solely by the taxpayer or is the request to change the apportionment method to be applicable to all affiliated corporations that engage in business activities in Seattle and file a Seattle tax return?
9. Is the taxpayer currently being audited by the Department?
10. In the past four years, has the taxpayer been audited by the Department and adjustments made to its apportionment method or to specific items that the taxpayer apportioned to Seattle?
11. During the past four years, has the taxpayer or any of its affiliates applied to the Department to use a different method of apportioning income or to use separate accounting to determine its gross service income attributable to Seattle?
12. Has the taxpayer made requests to any other cities/states to use an alternative method of apportioning income? What was the result?

REVIEW OF THE APPLICATION

The Department's License and Tax Administration Section will review the information submitted and will issue a decision as to whether the taxpayer may adopt the alternative method of apportionment requested. With its decision, the department will issue a letter setting forth its reasons for approving or denying the taxpayer's request to change its apportionment method. Written approval of the new method must be received prior to using the new method to determine income apportioned to Seattle.