



CORPORATION TAX BULLETIN 2022-01

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Split-Factor Apportionment

The purpose of this bulletin is to provide guidance on the proper apportionment of income by a taxpayer involved in both an activity subject to one or more of the special apportionment formulas under 72 P.S. § 7401(3)2.(b)-(e), as well as separate activities subject to standard single sales factor apportionment under 72 P.S. § 7401(3)2.(a)(15)-(17).

This issue was previously addressed by the Commonwealth Court in the matter of *Buckeye Pipeline Co. v. Commonwealth*.¹ In that case the taxpayer requested the use of pipeline apportionment to apportion all of its income. The Commonwealth countered that the taxpayer was a management company because 98.6% of its gross receipts were derived from management activities and only 1.4% of its gross receipts were derived from pipeline activities. In the alternative, the Commonwealth argued that the taxpayer was entitled to an apportionment methodology whereby the taxpayer's taxable income was subject to "split apportionment" according to the proportion of gross receipts derived from the transportation of liquid property compared to the proportion of gross receipts derived from management activities.

The Commonwealth Court ultimately adopted the Commonwealth's split apportionment methodology wherein it stated:

The Commonwealth concedes in its brief that applying the three-factor method of apportionment to all of Buckeye's receipts would not fairly represent Buckeye's business activity in Pennsylvania. Based on this provision, the revenue barrel mile method of apportionment should apply to the 1.4% of Buckeye's receipts that derive from transporting petroleum products through pipelines to "effectuate an equitable allocation and apportionment of Buckeye's income.

¹ *Buckeye Pipeline v. Commonwealth*, 689 A.2d at 366 (Pa. Cmwlth. 1997).



We, therefore, hold that Buckeye is a pipeline company for 1.4% of its gross receipts, which are derived from transporting petroleum, and is entitled to have that amount apportioned according to the revenue barrel mile method. Buckeye is not a pipeline company for the remaining 98.6% of its gross receipts and must, therefore, apportion that amount according to the three-factor method.²

Since the issuance of the above opinion the Department has consistently applied the split factor methodology adopted by the court in *Buckeye Pipeline* to similarly situated taxpayers which engage in activities subject to both the standard apportionment formula as well as one or more of the special apportionment formulas found at 72 P.S. § 7401(3)2.(b)-(e). Application of this approach involves the following steps:

1. Calculate the income or loss to be apportioned (currently reported as line 6 of Section B of the Form RCT-101). In accordance with the unitary business concept, this is one amount encompassing all of the activities engaged in by the taxpayer.
2. Determine the entity's total gross receipts from all activities.
3. Determine the gross receipts from special apportionment activities.
4. Subtract the amount from Step 3 from the amount in Step 2 in order to determine the gross receipts from standard apportionment activities.
5. Calculate the percentage of gross receipts applicable to each activity by separately dividing the amounts from Step 3 and Step 4 by the amount determined in Step 2.
6. Multiply each of the percentages from Step 5 by the income or loss to be apportioned from Step 1.
7. Apply the standard apportionment formula to the amount of income or loss determined in Step 6 to be subject to standard apportionment.
8. Apply the applicable special apportionment formula to the amount of income or loss determined in Step 6 to be subject to special apportionment.
9. Add the results of Steps 7 and 8 together.
10. Add any nonbusiness income or loss allocated to Pennsylvania to the amount determined in Step 9.
11. If the taxpayer has positive income in Step 10, deduct available Pennsylvania net losses (subject to applicable limitations).
12. Apply the CNIT rate to the amount determined in Step 11.

² *Buckeye Pipeline*, 689 A.2d at 372. Note that for the period at issue in the case standard apportionment consisted of a three-factor method based on property, payroll and sales. For tax years beginning after December 31, 2012 the standard apportionment formula requires all income to be apportioned to Pennsylvania based on the sales factor alone.



See below for an example of these calculations relating to a taxpayer involved in one activity subject to special apportionment and one or more other activities subject to standard apportionment.

Example 1 - Taxpayer Operating a Pipeline and Performing Other Business Activities subject to Standard Apportionment		
<u>Split Apportionment Calculation</u>		
1	Total Gross Receipts (excluding receipts related to income allocable pursuant to 72 P.S. § 7401(3)2.(a)(4)-(8))	300,000,000
2	Gross Receipts from Pipeline activity subject to special apportionment pursuant to 72 P.S. § 7401(3)2.(c)	200,000,000
3	Gross Receipts subject to standard apportionment pursuant to 72 P.S. § 7401(3)2.(a)(15)-(17). (Line 1 - Line 2)	100,000,000
<u>Standard Apportionment Portion</u>		
4	Gross Receipts Fraction - standard apportionment activity (Line 3/Line 1)	0.333333
5	Income or Loss to be apportioned (Line 6, Section B of Form RCT-101)	50,000,000
6	Income or Loss subject to Standard Apportionment (Line 4 * Line 5)	16,666,667
7	Apportionment (from Schedule C-1 line 1C - standard apportionment)	0.18
8	PA Taxable Income - Standard Apportionment (Line 6 * Line 7)	3,000,000
plus		
<u>Special Apportionment Portion</u>		
9	Gross Receipts Fraction - Pipeline Activity (Line 2/Line 1)	0.666667
10	Income or Loss to be apportioned (Line 6, Section B of Form RCT-101)	50,000,000
11	Income or Loss subject to Special Apportionment for Pipeline Companies (Line 9 * Line 10)	33,333,333
12	Apportionment (from Schedule C-1 line 2C - special apportionment)	0.65
13	PA Taxable Income - Special Apportionment (Line 11 * Line 12)	21,666,667
equals		
<u>Combination of Both Portions</u>		
14	Pennsylvania Taxable Income - Standard Apportionment Portion (Line 8)	3,000,000
15	Pennsylvania Taxable Income - Special Apportionment Portion (Line 13)	21,666,667
16	Nonbusiness income or loss allocated to PA	-
17	PA Taxable Income or Loss After Apportionment (Line 14 + Line 15 + Line 16)	24,666,667
18	Total Net Operating Loss Deduction (RCT-103, Part A, Line 4)	1,800,000
19	PA Taxable Income or Loss (Line 17 - Line 18)	22,866,667
20	PA Corporate Net Income Tax (Line 19 * 0.0999)	2,284,380



See below for an example of these calculations relating to a taxpayer involved in two different activities subject to special apportionment and one or more other activities subject to standard apportionment.

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Example 2 - Taxpayer Operating a Pipeline, a Trucking Operation and Performing Other Business Activities subject to Standard Apportionment

<u>Split Apportionment Calculation</u>		
1	Total Gross Receipts (excluding receipts related to income allocable pursuant to 72 P.S. § 7401(3)2.(a)(4)-(8))	425,000,000
2	Gross Receipts from Trucking activity subject to special apportionment pursuant to 72 P.S. § 7401(3)2.(b)	125,000,000
3	Gross Receipts from Pipeline activity subject to special apportionment pursuant to 72 P.S. § 7401(3)2.(c)	100,000,000
4	Gross Receipts subject to standard apportionment pursuant to 72 P.S. § 7401(3)2.(a)(15)-(17) (Line 1 - Line 2 - Line 3)	200,000,000
<u>Standard Apportionment Portion</u>		
5	Gross Receipts Fraction - standard apportionment activity (Line 4/Line 1)	0.470588
6	Income or Loss to be apportioned (Line 6, Section B of Form RCT-101)	50,000,000
7	Income or Loss subject to Standard Apportionment (Line 5 * Line 6)	23,529,412
8	Apportionment (from Schedule C-1 line 1C - standard apportionment)	0.18
9	PA Taxable Income - Standard Apportionment (Line 7 * Line 8)	4,235,294
<u>plus</u>		
<u>Special Apportionment Portion - Trucking</u>		
10	Gross Receipts Fraction - Trucking Activity (Line 2/Line 1)	0.294118
11	Income or Loss to be apportioned (Line 6, Section B of Form RCT-101)	50,000,000
12	Income or Loss subject to Special Apportionment for Trucking Companies (Line 10 * Line 11)	14,705,882
13	Apportionment (from Schedule C-1 line 2C - special apportionment - Trucking Activity Only)	0.65
14	PA Taxable Income - Special Apportionment - Trucking (Line 12 * Line 13)	9,558,824
<u>plus</u>		
<u>Special Apportionment Portion - Pipeline</u>		
15	Gross Receipts Fraction - Pipeline Activity (Line 3/Line 1)	0.235294
16	Income or Loss to be apportioned (Line 6, Section B of Form RCT-101)	50,000,000
17	Income or Loss subject to Special Apportionment for Pipeline Companies (Line 15 * Line 16)	11,764,706
18	Apportionment (from Schedule C-1 line 2C - special apportionment - Pipeline Activity Only)	0.07
19	PA Taxable Income - Special Apportionment - Pipeline (Line 17 * Line 18)	823,529
<u>equals</u>		
<u>Combination of All Portions</u>		
20	Pennsylvania Taxable Income - Standard Apportionment Portion (Line 9)	4,235,294
21	Pennsylvania Taxable Income - Special Apportionment Portion - Trucking (Line 14)	9,558,824
22	Pennsylvania Taxable Income - Special Apportionment Portion - Pipeline (Line 19)	823,529
23	Nonbusiness income or loss allocated to PA	-
24	PA Taxable Income or Loss After Apportionment (Line 20 + Line 21 + Line 22 + Line 23)	14,617,647
25	Total Net Operating Loss Deduction (RCT-103, Part A, Line 4)	1,800,000
26	PA Taxable Income or Loss (Line 24 - Line 25)	12,817,647
27	PA Corporate Net Income Tax (Line 26 * 0.0999)	1,280,483



Finally, see below for an example where the taxpayer is in a loss position for the year.

Example 3 - Taxpayer Operating a Pipeline and Performing Other Business Activities subject to Standard Apportionment		
<u>Split Apportionment Calculation</u>		
1	Total Gross Receipts (excluding receipts related to income allocable pursuant to 72 P.S. § 7401(3)2.(a)(4)-(8))	575,000,000
2	Gross Receipts from Pipeline activity subject to special apportionment pursuant to 72 P.S. § 7401(3)2.(c)	100,000,000
3	Gross Receipts subject to standard apportionment pursuant to 72 P.S. § 7401(3)2.(a)(15)-(17). (Line 1 - Line 2)	475,000,000
<u>Standard Apportionment Portion</u>		
4	Gross Receipts Fraction - standard apportionment activity (Line 3/Line 1)	0.826087
5	Income or Loss to be apportioned (Line 6, Section B of Form RCT-101)	(100,000,000)
6	Income or Loss subject to Standard Apportionment (Line 4 * Line 5)	(82,608,696)
7	Apportionment (from Schedule C-1 line 1C - standard apportionment)	0.18
8	PA Taxable Income - Standard Apportionment (Line 6 * Line 7)	(14,869,565)
<u>plus</u>		
<u>Special Apportionment Portion</u>		
9	Gross Receipts Fraction - Pipeline Activity (Line 2/Line 1)	0.173913
10	Income or Loss to be apportioned (Line 6, Section B of Form RCT-101)	(100,000,000)
11	Income or Loss subject to Special Apportionment for Pipeline Companies (Line 9 * Line 10)	(17,391,304)
12	Apportionment (from Schedule C-1 line 2C - special apportionment)	0.65
13	PA Taxable Income - Special Apportionment (Line 11 * Line 12)	(11,304,348)
<u>equals</u>		
<u>Combination of Both Portions</u>		
14	Pennsylvania Taxable Income - Standard Apportionment Portion (Line 8)	(14,869,565)
15	Pennsylvania Taxable Income - Special Apportionment Portion (Line 13)	(11,304,348)
16	Nonbusiness income or loss allocated to PA	-
17	PA Taxable Income or Loss After Apportionment (Line 14 + Line 15 + Line 16)	(26,173,913)
18	Total Net Operating Loss Deduction (RCT-103, Part A, Line 4)	-
19	PA Taxable Income or Loss (Line 17 - Line 18)	(26,173,913)
20	PA Corporate Net Income Tax (Line 19 * 0.0999)	-