INCOME TAX RULES EXAMPLES

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Rule 16—Idaho Gross Income

A taxpayer's federal adjusted gross income includes ten thousand dollars ($10,000) of ordinary loss passed through from a partnership that transacts business only in Idaho. However, the taxpayer's distributive share of the partnership's gross income determined under Section 61 of the Internal Revenue Code is fifty thousand dollars ($50,000). The taxpayer's gross income from Idaho sources from the partnership is fifty thousand dollars ($50,000).

A taxpayer's federal adjusted gross income includes ten thousand dollars ($10,000) of ordinary loss passed through from a partnership that has a fifty percent (50%) Idaho apportionment factor. However, the taxpayer's distributive share of the partnership's gross income determined under Section 61 of the Internal Revenue Code is fifty thousand dollars ($50,000). The taxpayer's gross income from Idaho sources from the partnership is twenty-five thousand dollars ($25,000).

A nonresident taxpayer's federal adjusted gross income includes five thousand dollars ($5,000) of guaranteed payments for services performed outside of Idaho received from a partnership that has a fifty percent (50%) Idaho apportionment factor. As provided in Section 63-3026A(3)(a)(i)(2), Idaho Code, none of the guaranteed payments are included in the partner's gross income from Idaho sources because the services were performed outside of Idaho.

A nonresident taxpayer's federal adjusted gross income includes five thousand dollars ($5,000) of guaranteed payments for services performed in Idaho received from a partnership that has a fifty percent (50%) Idaho apportionment factor. As provided in Section 63-3026A(3)(a)(i)(2), Idaho Code, all of the guaranteed payments are included in the partner's gross income from Idaho sources because the services were performed in Idaho.

A nonresident taxpayer's federal adjusted gross income includes three hundred thousand dollars ($300,000) of guaranteed payments for services performed outside of Idaho received from a partnership that has a fifty percent (50%) Idaho apportionment factor. As provided in Section 63-3026A(3)(a)(i)(2), Idaho Code, the first two hundred and fifty thousand dollars ($250,000) of guaranteed payments are sourced as compensation for services. Since the services were performed outside of Idaho, two hundred and fifty thousand dollars ($250,000) of the guaranteed payments are not included in the partner's gross income from Idaho sources. However, twenty-five thousand dollars ($25,000) of the guaranteed payments in excess of two hundred and fifty thousand dollars ($250,000) are included in the partner's gross income from Idaho sources based on the apportionment factor of the partnership.

A nonresident taxpayer's federal adjusted gross income includes ten thousand dollars ($10,000) of nonbusiness gross income passed through from a partnership that has a fifty percent (50%) Idaho apportionment factor. If the partnership's nonbusiness income is allocated to Idaho, ten thousand dollars ($10,000) of the nonbusiness gross income is included in the partner's gross income from Idaho sources. If the partnership's nonbusiness income is allocated to a state other than Idaho, none of the nonbusiness gross income is included in the partner's gross income from Idaho sources.

Rule 40—Part-Year Resident

Place of Abode Examples

An individual who is not domiciled in Idaho owns a home in Idaho that is leased to a third party for the entire taxable year. Since the individual does not have the right to immediately occupy the home, it is not treated as that individual's abode for purposes of determining his residency status.

An individual who is not domiciled in Idaho owns a home in Idaho that is offered for rent. For the first three (3) months of the taxable year the home is not rented and remains vacant. During the final nine (9) months of the taxable year the home is leased to a third party. The individual will be treated as having a place of abode in Idaho during the first three (3) months of the taxable year since the individual had the right to immediately occupy the home. If the individual is present in Idaho during the first three (3) months of the taxable year for other than a temporary or transitory purpose, that individual will be deemed to reside in Idaho.

Rule 50—Limited Liability Companies

Application of Idaho Code and Rules

If a limited liability company has elected to be classified for income tax purposes as a partnership, Idaho's income tax administrative rules that apply to partnerships will also apply to such limited liability company.

Rule 130—Deduction of Certain Retirement Benefits

In year one (1), the husband of a married couple filing a joint income tax return received civil service retirement. The husband did not qualify for the Idaho retirement deduction that year since he was not disabled and was only age sixty (60) during that year. In year two (2) the husband died. Because his wife is age sixty- three (63) and disabled in that year, she is eligible for the deduction for year two (2) but only for the amount of her husband's retirement benefits she received that year as a result of being the widow. She may not include in the computation of the deduction any amounts her husband was paid or entitled to prior to his death. For year three (3), she may compute the deduction based on all the retirement benefits she receives as the widow that year.

Assume the same facts as stated above, except that the wife is not disabled and does not reach age sixty-five (65) until year four (4). In year one (1) the husband did not qualify for the Idaho retirement deduction. In year two (2) the husband did not qualify for the deduction and the wife did not qualify after her husband died. In year three (3), the wife did not qualify. In year four (4), because the wife reaches age sixty-five (65) during that year, she is entitled to the Idaho retirement deduction on the amount of her husband's retirement she received that year as a result of being a widow.

Once the widow remarries, she will not be eligible for the Idaho retirement deduction for that year and the years that follow on the amounts she receives from her previous husband's retirement.

Rule 170—Idaho Capital Gains Deduction

Capital Gain Net Income Limitation

A taxpayer recognizes a capital gain of five thousand dollars ($5,000) on the sale of Idaho real property that qualifies for the deduction. The taxpayer also recognizes a capital loss of two thousand five hundred dollars ($2,500) from the sale of shares of stock. These are the only sales during the taxable year. Sixty percent (60%) of the capital gain net income from qualified property is greater than the capital gain net income included in the taxpayer's taxable income. Therefore, the taxpayer's Idaho capital gains deduction is limited to the capital gain net income included in taxable income of two thousand five hundred dollars ($2,500), not sixty percent (60%) of the capital gain net income from the qualified property.

Ordinary Income Limitation

One hundred thousand dollars ($100,000) of capital gain income is treated as ordinary income. The first seventy thousand dollars ($70,000) of ordinary income is allocated to the net section 1231 gain in the twenty-eight percent (28%) category. None of the gain in this category qualifies for the Idaho capital gains deduction since it is all treated as ordinary income. The remaining thirty thousand dollars ($30,000) of ordinary income is allocated to gain from property in the twenty-five percent (25%) group. The gain in this category is derived from the sale on three (3) items of equipment. Two (2) of the items were qualified property located in Idaho. The third item was located in Oregon. Each item generated a gain of twenty-five thousand dollars ($25,000). The gain treated as ordinary income is prorated between the three (3) items, ten thousand dollars ($10,000) to each. As a result, fifteen thousand dollars ($15,000) of the gain on each item remains as capital gain. The fifteen thousand dollars

($15,000) of capital gain on each of the two items of Idaho equipment qualify for the Idaho capital gains deduction. Ten thousand dollars ($10,000) of the gain on each of the items do not qualify since it is treated as ordinary income. The gain on the Oregon equipment does not qualify for the capital gains deduction since the equipment is not located in Idaho.

$100,000 of Gain Treated as Ordinary Income	28% Group	25% Group		
		Idaho Equipment	Idaho Equipment	Oregon Equipment
Total Gain in Category	$70,000	$25,000	$25,000	$25,000
Gain Treated as Ordinary Income	$70,000	$100,000 - $70,000 = $30,000 X $25,000/$75,000 = $10,000	$100,000 - $70,000 = $30,000 X $25,000/$75,000 = $10,000	$100,000 - $70,000 = $30,000 X $25,000/$75,000 = $10,000
Amount Remaining as Capital Gain	$0	$25,000 - $10,000 = $15,000	$25,000 - $10,000 = $15,000	$25,000 - $10,000 = $15,000
Gain Qualifying for Idaho Capital Gains Deduction	$0	$15,000	$15,000	$0

Losses from Qualified Property

A taxpayer sells two (2) parcels of Idaho real property that qualify for the deduction. These are the only sales during the taxable year. A capital gain of seven thousand five hundred dollars ($7,500) is recognized on the sale of Parcel A. A capital loss of five thousand dollars ($5,000) is recognized on the sale of Parcel B. Since both parcels are qualified property, the gain and loss are netted, resulting in capital gain net income from qualified property of two thousand five hundred dollars ($2,500). The capital gains deduction is sixty percent (60%) or one thousand five hundred dollars ($1,500).

A taxpayer recognizes a capital gain of twenty thousand dollars ($20,000) on the sale of Idaho real property that qualifies for the deduction. The taxpayer also recognizes a capital loss of two thousand five hundred dollars ($2,500) from the sale of shares of stock that he has held for more than one (1) year. These are the only sales during the taxable year. In this case, since the long-term capital loss is not from qualified property, the loss on the sale of stock does not reduce the gain from qualified property for purposes of computing the deduction. The entire gain from qualified property of twenty thousand dollars ($20,000) is eligible for the Idaho capital gains deduction. The capital gains deduction is sixty percent (60%) or twelve thousand dollars ($12,000).

Nonqualifying Property

A taxpayer purchased land in California. After owning the land three (3) years, he gave up the California land in a tax-free exchange for land in Idaho. He owned the Idaho land for ten (10) months until selling it at a gain. For federal purposes the holding period of the California land tacks on to the holding period of the Idaho land. The gain from the sale of the California land would not qualify for the Idaho capital gains deduction since it is real property located outside Idaho. The holding period of the California land does not tack on to the holding period of the Idaho land for purposes of the Idaho capital gains deduction. Because the Idaho land was not held for twelve (12) months, the gain from the sale of the Idaho land does not qualify for the Idaho capital gains deduction.

Assume the same facts as in the example above except the taxpayer's original purchase was land in Idaho. Because the taxpayer owned real property in Idaho that was exchanged for a second parcel of real property in Idaho, the holding period of the Idaho land given up tacks on to the holding period of the second parcel of Idaho land. Because the holding period of the second property, which includes the holding period of the first property, was at least twelve (12) months, the gain from the sale of the second parcel of real property qualifies for the Idaho capital gains deduction.

Revenue Producing Enterprise

A taxpayer’s Idaho business includes buying wool and processing it into yarn, using the yarn to manufacture clothes, and selling the clothes to the customers. Only part of the taxpayer’s business activity qualifies as a revenue-producing enterprise. The activity related to retail sales does not qualify as a revenue-producing enterprise and any tangible personal property used in that activity does not qualify for the Idaho capital gains deduction.

A taxpayer’s Idaho business includes cutting timber in a forest, transporting the logs to a sawmill, processing the logs into plywood, and selling the plywood to a furniture manufacturer. The entire business qualifies as a revenue-producing enterprise, including the selling activity, because the selling activity is at wholesale.

A taxpayer’s Idaho business includes growing potatoes and operating a long-haul trucking business unrelated to the potato operations. Only the portion of the Idaho business involved in activities necessary to the growing of potatoes qualifies as a revenue-producing enterprise. Tangible personal property used in the taxpayer’s long-haul trucking business does not qualify for the Idaho capital gains deduction.

Multistate Entities

XYZ Farms, a multistate partnership, sold three (3) parcels of farmland: one (1) in Idaho purchased seven (7) years ago, one (1) in Washington, and one (1) in Oregon. The sale of the Idaho property resulted in a forty thousand dollar ($40,000) gain, the sale of the Washington property resulted in a thirty thousand dollar ($30,000) gain, and the sale of the Oregon property resulted in a twenty thousand dollar ($20,000) loss, for a net gain of fifty thousand dollars ($50,000). The income and loss from the sale of the farmland is determined to be business income and is included in income apportionable to Idaho. The partnership has a seventy-five percent (75%) Idaho apportionment factor. The three (3) nonresident partners share equally in the partnership profits. Each nonresident partner reports capital gain net income in determining taxable income for the year and may claim an Idaho capital gains deduction of six thousand dollars ($6,000), computed as follows: ($40,000 Idaho gain X 75% apportionment factor = $30,000 gain apportioned to Idaho X 1/3 interest = $10,000 attributable to each partner X 60% = $6,000 capital gains deduction allowable on each partner’s nonresident return). For taxable year 2001 only, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, or eight thousand dollars ($8,000). After 2001, the capital gains deduction returns to sixty percent (60%) or six thousand dollars ($6,000).

Assume the same facts as above, except that one (1) of the nonresident partners reported capital gain net loss on his federal return. Because the partner did not meet the criteria of reporting capital gain net income in determining taxable income as required by Section 63-3022H(1), Idaho Code, he would not be entitled to the Idaho capital gains deduction on his Idaho return.

Assume the same facts as above, except that the Oregon property was sold at a ninety thousand dollar ($90,000) loss, resulting in capital gain net loss from the partnership. If a partner had other capital gains to report and reported capital gain net income on his federal income tax return, he would be entitled to part or all of the capital gains deduction computed on the Idaho property, limited to the amount of the capital gain net income from all property included in taxable income by the partner.

Assume the same facts as above, except that the farmland is determined to be nonbusiness income. Therefore, the forty thousand dollar ($40,000) gain from the sale of the Idaho farmland is allocated to Idaho. Assuming each partner had no other capital gains or losses except from the partnership, each partner may claim an Idaho capital gains deduction of eight thousand dollars ($8,000), computed as follows: ($40,000 gain allocated to Idaho X 1/3 = $13,333 partner’s share X 60% = $8,000 Idaho capital gains deduction allowable on each partner’s nonresident return). For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, computed to be ten thousand six hundred and sixty-seven dollars ($10,667).

An Idaho resident partner must report all partnership income to Idaho. As a result, his share of partnership income, including any capital gain included in apportionable income, is not limited by the apportionment factor of the partnership. Therefore, in the example above, a resident partner may claim an Idaho capital gains deduction of eight thousand dollars ($8,000) computed as follows: ($40,000 Idaho gain X 1/3 interest X 60% = $8,000). For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, computed to be ten thousand six hundred and sixty-seven dollars ($40,000 Idaho gain X 1/3 interest X 80% = $10,667).

Rule 185—Adoption Expenses

A taxpayer spent five thousand dollars ($5,000) in 2017 and four thousand dollars ($4,000) in 2018 to adopt a child. He can deduct three thousand dollars ($3,000) in 2017 and four thousand dollars ($4,000) in 2018.

A taxpayer spent five thousand dollars ($5,000) in 2017 and fifteen thousand dollars ($15,000) in 2018 to adopt a child. He can deduct three thousand dollars ($3,000) in 2017 and seven thousand dollars ($7,000) in 2018.

Rule 190—Idaho Medical Savings Accounts

Withdrawal to Reimburse the Account Holder

A taxpayer's Idaho medical savings account had a balance of three hundred dollars ($300) on March 1. On that day, he paid a medical expense costing four hundred dollars ($400) using funds from his regular checking account. On March 10 the taxpayer deposited two hundred dollars ($200) into his medical savings account. On March 11 he withdrew four hundred dollars ($400) from his medical savings account to reimburse himself for the medical expense payment. Only three hundred dollars ($300) of the withdrawal qualifies as a payment of eligible medical expenses. The taxpayer may deduct two hundred dollars ($200) for the contribution to the account. However, he must include one hundred dollars ($100) in Idaho taxable income in addition to paying a penalty of ten dollars ($10).

Death of a Spouse

A married couple contributes three thousand dollars ($3,000) to their medical savings account in January of 2013. In April of that year, the husband dies. The contributions made to the date of death will be attributed to each spouse with the result that each spouse is considered to have contributed one thousand five hundred dollars ($1,500). Because the wife has not met the maximum deduction of two thousand dollars ($2,000) for taxable year 2013, she can contribute another five hundred dollars ($500) in that year.

Rule 194—Health Insurance Costs and Long-Term Care Insurance—Examples of Limitations

Examples of Limitations When Costs are Otherwise Deducted or Accounted For.

If a taxpayer elects to itemize deductions for Idaho purposes and his medical expenses exceed the federal adjusted gross income limitation, the amount that is deducted as an itemized deduction will first apply to health insurance costs, next to long-term care insurance, and last to other medical expenses. If the premiums exceed the amount deducted as an itemized deduction, the Idaho deductions for health insurance costs and long-term care insurance may be allowed if the premiums were not otherwise deducted or accounted for. If the taxpayer does not elect to itemize deductions for Idaho purposes, or if the taxpayer is unable to deduct medical expenses as an itemized deduction due to the federal adjusted gross income limitation, the full amount of health insurance costs and premiums paid for long-term care insurance (fifty-percent (50%) of the premiums for taxable years beginning prior to 2004), not otherwise deducted or accounted for, qualify for the Idaho deduction. Amounts used for calculating the limitations must not be less than zero (0).

Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Zero (0).

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS		
1.	Health insurance expenses claimed on federal Schedule A	$10,000
2.	Long-term care insurance expenses claimed on federal Schedule A	$4,000
3.	Other medical expenses claimed on federal Schedule A	$2,000
4.	Total medical expenses claimed on federal Schedule A	$16,000

5.	Applicable percentage of federal adjusted gross income	$0
6.	Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$16,000
	HEALTH INSURANCE	
7.	Total amount paid for health insurance	$10,100
8.	Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	$10,000
9.	Health insurance expenses deducted elsewhere on the federal return	$100
10.	Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
	LONG-TERM CARE INSURANCE	
11.	Total amount paid for long-term care insurance	$4,050
12.	Medical expense deduction not allocated to health insurance (line 6 less line 1)	$6,000
13.	Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	$4,000
14.	Long-term care insurance deducted elsewhere on the federal return	$50
15.	Long-term care insurance deduction allowed for Idaho (line 11 less lines 13 and 14)	$0

Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Three Thousand Dollars ($3,000).

	HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1.	Health insurance expenses claimed on federal Schedule A	$10,000
2.	Long-term care insurance expenses claimed on federal Schedule A	$4,000
3.	Other medical expenses claimed on federal Schedule A	$2,000
4.	Total medical expenses claimed on federal Schedule A	$16,000
5.	Applicable percentage of federal adjusted gross income	$3,000
6.	Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$13,000
	HEALTH INSURANCE	
7.	Total amount paid for health insurance	$10,100
8.	Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	$10,000
9.	Health insurance expenses deducted elsewhere on the federal return	$100
10.	Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
	LONG-TERM CARE INSURANCE	
11.	Total amount paid for long-term care insurance	$4,050
12.	Medical expense deduction not allocated to health insurance (line 6 less line 1)	$3,000
13.	Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	$3,000
14.	Long-term care insurance deducted elsewhere on the federal return	$50
15.	Long-term care insurance deduction allowed for Idaho (line 11 less lines 13 and 14)	$1,000

Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Six Thousand Dollars ($6,000).

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1. Health insurance expenses claimed on federal Schedule A	$10,000
2. Long-term care insurance expenses claimed on federal Schedule A	$4,000
3. Other medical expenses claimed on federal Schedule A	$2,000
4. Total medical expenses claimed on federal Schedule A	$16,000
5. Applicable percentage of federal adjusted gross income	$6,000
6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$10,000
HEALTH INSURANCE	
7. Total amount paid for health insurance	$10,100
8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	$10,000
9. Health insurance expenses deducted elsewhere on the federal return	$100
10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
LONG-TERM CARE INSURANCE	
11. Total amount paid for long-term care insurance	$4,050
12. Medical expense deduction not allocated to health insurance (line 6 less line 1)	$0
13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	$0
14. Long-term care insurance deducted elsewhere on the federal return	$50
15. Long-term care insurance deduction allowed for Idaho (line 11 less lines 13 and 14)	$4,000

Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Fourteen Thousand Dollars ($14,000).

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1. Health insurance expenses claimed on federal Schedule A	$10,000
2. Long-term care insurance expenses claimed on federal Schedule A	$4,000
3. Other medical expenses claimed on federal Schedule A	$2,000
4. Total medical expenses claimed on federal Schedule A	$16,000
5. Applicable percentage of federal adjusted gross income	$14,000
6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$2,000
HEALTH INSURANCE	
7. Total amount paid for health insurance	$10,100
8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	$2,000
9. Health insurance expenses deducted elsewhere on the federal return	$100
10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$8,000
LONG-TERM CARE INSURANCE	
11. Total amount paid for long-term care insurance	$4,050
12. Medical expense deduction not allocated to health insurance (line 6 less line 1)	$0

13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	$0
14. Long-term care insurance deducted elsewhere on the federal return	$50
15. Long-term care insurance deduction allowed for Idaho (line 11 less lines 13 and 14)	$4,000

Rule 195—Loss Recoveries

No Double Deduction

A taxpayer claims an itemized deduction of one hundred thousand ($100,000) on his 2010 federal tax return for a theft loss from a Ponzi-type investment scheme. The deduction results in a federal net operating loss of fifty thousand ($50,000) for 2010 but no Idaho net operating loss because the itemized deduction is not allowable in calculating an Idaho net operating loss under Section 63-3021, Idaho Code. On his 2013 federal tax return, the taxpayer includes in federal taxable income a recovery of sixty thousand ($60,000) of the amount previously deducted. Since ten thousand ($10,000) of the recovered amount reduced 2010 Idaho taxable income and fifty thousand ($50,000) did not reduce 2010 Idaho taxable income, a fifty thousand ($50,000) deduction is allowed in calculating 2013 Idaho taxable income. The 2013 Idaho deduction allowed is fifty thousand ($50,000) since that is the amount that was previously disallowed for Idaho purposes.

Rule 200—Net Operating Loss—Corporations

	XYZ USA, Inc.	Idaho XYZ	Oregon XYZ	Combined
Computation of Idaho Net Operating Loss (NOL):				
Federal Taxable Income	(50,000,000)	5,000,000	(7,000,000)	(52,000,000)
State Adjustments	(5,000,000)	(150,000)	450,000	(4,700,000)
Unitary Business Income (Loss) Subject to Apportionment				(56,700,000)
Idaho Apportionment Factor	.000329	.006217	.000000	
Loss Apportioned to Idaho	(18,654)	(352,504)	0	
Income (Loss) Allocated to Idaho		35,000	0	
Idaho NOL	(18,654)	(317,504)	0	
Application of Idaho NOL:				
Idaho Taxable Income Before Carry-back:				
2nd Preceding Tax Year	15,987	212,852		
1st Preceding Tax Year	29,854	447,962		
Maximum Loss Available for Carryback – Limited to the lesser of the current year NOL or $100,000	(18,654)	(100,000)		
NOL Applied to: 2nd Preceding Tax Year 1st Preceding Tax Year	 (15,987) (2,667)	 (100,000) 0		
NOL Available for Carryover	0	(217,504)		

Taxable Income Remaining in Carry-back Years:				
2nd Preceding Tax Year	0	112,852		
1st Preceding Tax Year	27,187	447,962		

Rule 250—Nonresident and Part-Year Resident Individuals—Income Subject to Idaho Taxation

Receipt of Intangible Income—Part-Year Residents

An individual converts an amount from a traditional IRA to a Roth IRA in year one (1). He elects to have the income taxed over four (4) years. The individual moves to Idaho on August 1 of year two (2). Since the individual was an Idaho resident for one hundred fifty-three (153) days of year two (2), he must report as Idaho income forty-two percent (42%) of his income from the conversion to a Roth IRA for that year.

Rule 268—Idaho Source Income of Nonresident and Part-Year Resident Individuals—Suspended Losses from Pass-through Entities

A nonresident individual's federal taxable income includes one hundred thousand dollars ($100,000) of loss from a partnership. Sixty thousand dollars ($60,000) of that loss was incurred in the prior tax year and suspended due to the basis limitation of Section 704(d) of the Internal Revenue Code. Forty thousand dollars ($40,000) of that loss was incurred in the current tax year. The Idaho apportionment factor of the partnership is one hundred percent (100%) in the current year and fifty percent (50%) in the prior year. The individual's Idaho taxable income includes seventy thousand dollars ($70,000) of the partnership's loss, computed as follows: ($60,000 prior year suspended loss x fifty percent (50%) prior year Idaho apportionment factor plus (Forty thousand dollars ($40,000) current year loss x one hundred percent (100%) current year Idaho apportionment factor).

Losses from Multiple Years

A nonresident individual has suspended losses from a partnership of one hundred thousand dollars ($100,000). The suspended losses consist of forty thousand dollars ($40,000) of loss incurred in Year 1 and sixty thousand dollars ($60,000) of loss incurred in Year 2. The individual also has a loss from the partnership in the current year of fifty thousand dollars ($50,000). The partnership's Idaho apportionment factor is one hundred percent (100%) in the current year and fifty percent (50%) in each of the preceding years. Due to the loss limitation of Section 704(d) of the Internal Revenue Code, the individual's current year deduction is limited to one hundred thousand dollars ($100,000). The one hundred thousand dollar ($100,000) loss allowed in computing federal taxable income is considered to be forty thousand dollars ($40,000) of suspended loss from Year 1 and sixty thousand dollars ($60,000) of suspended loss from Year 2. The amount included in Idaho taxable income is fifty thousand dollars ($50,000), computed as follows: ($40,000 Year 1 loss x 50% Idaho apportionment factor) plus ($60,000 Year 2 loss x 50% Idaho apportionment factor).

Rule 275—Idaho Source Income of Nonresident and Part-Year Resident Individuals—Investment Income from Qualified Investment Partnerships

A is a nonresident individual member of ABC, a partnership operating solely within Idaho. The taxable income of ABC for the taxable year consists of ninety thousand dollars ($90,000) of dividend income and ten thousand dollars ($10,000) of capital gains from stock trading through a brokerage account. If A held the stock directly, Section 63-3026A(3)(a)(iii), Idaho Code, provides that the dividends and capital gains would not be included in Idaho taxable income. Since at least ninety percent (90%) of ABC's income is from investments that would not be taxable to a nonresident individual if held directly by that individual, ABC is a qualified investment partnership and none of A's distributive share of the income is included in Idaho taxable income even though ABC is an Idaho partnership.

Assume the same facts as above, except that the ten thousand dollars ($10,000) of capital gains is from the sale of Idaho real property. Since at least ninety percent (90%) of ABC's income is from investments that would not be taxable to a nonresident individual if held directly by that individual, ABC is a qualified investment partnership. A's distributive share of ABC's dividend income is excluded from A's Idaho taxable income, but A's distributive share of ABC's gain from the sale of Idaho real property is included in Idaho taxable income because Section 63-3026A(3), Idaho Code, provides that such income would be taxable to A if A had owned the property directly.

A is a nonresident individual member of ABC, a partnership operating solely within Idaho. The taxable income of ABC for the taxable year consists of eighty thousand dollars ($80,000) of dividend income and twenty thousand dollars ($20,000) of capital gains from the sale of Idaho real property. ABC is not a qualified investment partnership because less than ninety percent (90%) of ABC's income is from investments that would not be taxable to a nonresident individual if held directly by that individual. A's distributive share of ABC's dividend income and capital gain income is included in Idaho taxable income.

A is a nonresident individual partner in ABC, a partnership with a fifty percent (50%) Idaho apportionment factor. The gross income of ABC consists of ninety thousand dollars ($90,000) of dividend income, five thousand dollars ($5,000) of capital gain from the sale of non-Idaho real property used in the trade or business, and five thousand dollars ($5,000) of gross business income. Since at least ninety percent (90%) of ABC's gross income is from investments that would not be taxable to a nonresident individual if held directly by that individual, ABC is a qualified investment partnership. A's distributive share of ABC's dividend income is excluded from A's Idaho taxable income, but fifty percent (50%) of A's distributive share of ABC's gain from the sale of non-Idaho real property (which is business income under the facts of this example) and fifty percent (50%) of A's distributive share of ABC's other business income is included in Idaho taxable income, based on the Idaho apportionment factor of the partnership as provided in Section 63-3026A(3)(a)(i).

Rule 700—Credit for Income Taxes Paid Another State or Territory: In General Limitations

An individual domiciled in Idaho is required to pay tax in another state due to his interest in an S corporation operating in that state. In addition to the individual's tax paid to the other state, the S corporation is required to pay an income tax to that state, of which four hundred dollars ($400) is attributable to the Idaho resident. The individual's income tax to the other state totals three hundred dollars ($300), but he is entitled to a three-hundred sixty dollar ($360) refundable corporate tax credit due to his share of the tax paid by the pass-through entity, resulting in a net refund of sixty dollars ($60). In computing the tax actually paid to the other state, the tax paid by the pass-through entity must be reduced by the net refund received by the individual ($400 - $60 = $340). The credit for tax paid to the other state is limited to three hundred forty dollars ($340).

If the adjusted gross income derived in another state is twelve thousand dollars ($12,000) after taking into account the Idaho additions and subtractions required by the Idaho Income Tax Act, and the individual's total adjusted gross income similarly modified equals fifty thousand dollars ($50,000), the credit cannot exceed twenty-four percent (24%) of the tax paid to Idaho ($12,000/$50,000 = 24% x tax paid to Idaho).

If a trust sells Oregon property at a gain of thirty-six thousand dollars ($36,000), which is the only income derived from sources in the other state, and the trust's federal total income is ninety thousand dollars ($90,000), the credit cannot exceed forty percent (40%) of the tax paid to Idaho ($36,000/$90,000 = 40% x tax paid to Idaho.)

Rule 701—Credit for Income Taxes Paid Another State or Territory: Part-Year Residents

The following examples assume the taxpayer earned only wage income.

Taxpayer A was domiciled in California and worked in that state from January through June. In July he moved to Idaho and changed his domicile from California to Idaho. He worked in Idaho the rest of the year. California will tax only the wages earned in California and Idaho will tax only the wages earned in Idaho. Because no income is subject to tax by both states, no credit for income taxes paid another state is allowed.

Taxpayer B was domiciled in Oregon from January through June. On July 1 he moved to Idaho and changed his domicile from Oregon to Idaho. He resided in Idaho the rest of the year. He worked in Oregon for the same employer the entire year. Oregon will tax all the wages earned during the year since they were earned in Oregon. Idaho will tax only the wages he earned in Oregon while residing in Idaho. As a result, only one-half (6 months / 12 months = 1/2) of his wages qualify for credit purposes as being subject to tax by both Idaho and Oregon.

Taxpayer C was domiciled in California. He resided and worked in California from January through June. On July 1 he moved to Idaho but did not change his domicile to Idaho as he intended to return to his home in California once his job assignment in Idaho was completed. California will tax all his income earned during the year since he is domiciled in California. Idaho will tax only the income he earned while residing in Idaho. Taxpayer C will not receive a credit for income taxes paid to California on his Idaho wages because this income is not earned in another state. If Taxpayer C received other income while residing in Idaho that is taxed by Idaho but sourced to another state, such as gains on the sale of stock, he may be entitled to a credit for taxes paid on this income.

Rule 710—Idaho Investment Tax Credit

Carryovers

A calendar year taxpayer earned investment tax credit in calendar year 1993. The taxpayer was unable to use all the credit in that year and in the subsequent carryover years. Carryover was remaining into the seventh and final carryover year, calendar year 2000. Since the taxpayer had eligible carryover going into a taxable year beginning on or after January 1, 2000, the carryover period changes from seven (7) years to fourteen (14) years. Assuming the carryover is available for the entire carryover period, and that there are no short period years, the last year that the carryover can be used will be calendar year 2007. If the seventh carryover year was a taxable year beginning prior to January 1, 2000, the carryover period has expired and is not extended.

Rule 714—Idaho Investment Tax Credit: Credit Earned on Property Used Both In and Outside Idaho in Taxable Years Beginning on or After January 1, 1995

Idaho Percentage-of-Use Method. In January 2009, a calendar year corporation purchased a road grader for fifty thousand dollars ($50,000). Thirty percent (30%) of its hours were logged in Idaho during the year. No other qualified investments were made during 2009. The taxpayer elected to compute the credit using the percentage-of-use method. The taxpayer has a fifteen thousand dollar ($15,000) qualified investment computed by multiplying thirty percent (30%) by fifty thousand dollars ($50,000). The investment tax credit is computed at three percent (3%) of fifteen thousand dollars ($15,000) for a credit of four hundred fifty dollars ($450).

Idaho Percentage-of-Use Method -- Assets placed in service within ninety (90) days of year end. A calendar year taxpayer elects the percentage-of-use method for a road grader placed in service on March 1, 2011, with a basis of seventy-five thousand dollars ($75,000). If eighty percent (80%) of the road grader’s hours were logged in Idaho measured between March 1 and December 31, 2011, the qualifying investment in the road grader is sixty thousand dollars ($60,000) computed at eighty percent (80%) of the asset’s basis. If the road grader was placed in service by the same calendar year taxpayer on November 1, 2011, the Idaho qualifying property is measured during the first ninety (90) days of use of the asset. If the percentage of hours logged in Idaho between November 1, 2011, and January 31, 2012, is seventy percent (70%), the qualifying investment in the road grader is fifty-two thousand five hundred dollars ($52,500) computed at seventy percent (70%) of the asset’s basis.

Idaho Property Factor Method. In January 2011, a calendar year corporation purchased a road grader for fifty thousand dollars ($50,000). Twenty percent (20%) of its hours were logged in Idaho during the year. In addition to the road grader, the taxpayer also purchased an asphalt layer and a dump truck in January 2011. Twenty percent (20%) of the dump truck’s hours were logged in Idaho during the year. Only the road grader and dump truck were used in Idaho during the year. The taxpayer's Idaho property factor is thirty percent (30%). The dump truck cost seventy-five thousand dollars ($75,000), and the asphalt layer cost two hundred thousand dollars ($200,000). The taxpayer has qualified investments totaling twenty-five thousand dollars ($25,000), computed at twenty percent (20%) of the one hundred twenty-five thousand dollars ($125,000) basis in the road grader and the dump truck. The investment tax credit is computed at three percent (3%) of the twenty-five thousand dollars ($25,000) for a total credit of seven hundred fifty dollars ($750). The taxpayer would include twenty-five thousand dollars ($25,000) in the Idaho property factor numerator. The asphalt layer does not qualify for the credit since it was not used in Idaho at any time during 2011.

Order of Limitations. Assume the taxpayer has two (2) asphalt layers costing two hundred thousand dollars ($200,000) each that are both mobile and used property. Fifty percent (50%) of the hours of both asphalt layers was logged in Idaho during the year. The taxpayer has a two hundred thousand dollar ($200,000) qualified investment computed by multiplying fifty percent (50%) by four hundred thousand dollars ($400,000). The used property limitation of one hundred fifty thousand dollars ($150,000) is applied to the two hundred thousand dollar ($200,000) qualified investment and the investment tax credit allowed is computed at three percent (3%) of the one hundred fifty thousand dollars ($150,000).

Rule 719—Idaho Investment Tax Credit: Property Tax Exemption in Lieu of

Examples of Determining Second Preceding Taxable Year.

A taxpayer files income tax returns on a calendar year basis. During calendar year 2003, the taxpayer placed in service personal property that qualifies for the investment tax credit. The taxpayer's two (2) preceding taxable years were calendar years 2001 and 2002. To qualify for the property tax exemption on personal property, the taxpayer must have had negative Idaho taxable income in calendar year 2001, the second preceding taxable year from calendar year 2003.

A taxpayer files income tax returns on a June 30 fiscal year end basis. During the fiscal year ended June 30, 2003, the taxpayer placed in service between January 1, 2003, and June 30, 2003, personal property that qualifies for the investment tax credit. The taxpayer's two (2) preceding taxable years were fiscal years ended June 30, 2001, and June 30, 2002. To qualify for the property tax exemption, the taxpayer must have had negative Idaho taxable income in fiscal year ended June 30, 2001, the second preceding taxable year from fiscal year ended June 30, 2003. Property placed in service during the fiscal year ended June 30, 2003, but in calendar year 2002 does not qualify for the exemption.

Assume the same facts as above except the taxpayer placed the property in service on September 30, 2003, during his fiscal year ended June 30, 2004. To qualify for the property tax exemption on personal property placed in service between July 1, 2003, and June 30, 2004, the taxpayer must have had negative Idaho taxable income in fiscal year ended June 30, 2002, the second preceding taxable year from the fiscal year ended June 30, 2004.

Assume the same facts as above except the taxpayer's previous two (2) taxable years included a short taxable year from January 1, 2002, to June 30, 2002, and calendar year 2001. To qualify for the property tax exemption on personal property placed in service between January 1, 2003, and June 30, 2003, the taxpayer must have had negative Idaho taxable income in the taxable year for calendar year 2001, the second preceding taxable year from the fiscal year ended June 30, 2003.

Table of examples of determining second preceding taxable year.

TAXABLE YEAR PROPERTY PLACED IN SERVICE	FIRST PRECEDING TAXABLE YEAR	SECOND PRECEDING TAXABLE YEAR
Calendar year 2003	Calendar year 2002	Calendar year 2001
Calendar year 2004	Calendar year 2003	Calendar year 2002
Calendar year 2004	Calendar year 2003	Short taxable year beginning February 1, 2002 and ending December 31, 2002
Fiscal year beginning July 1, 2002 and ending June 30, 2003	Fiscal year beginning July 1, 2001 and ending June 30, 2002	Fiscal year beginning July 1, 2000 and ending June 30, 2001
Fiscal year beginning September 1, 2003 and ending August 31, 2004	Fiscal year beginning September 1, 2002 and ending August 31, 2003	Fiscal year beginning September 1, 2001 and ending August 31, 2002

Fiscal year beginning July 1, 2002 and ending June 30, 2003	Short taxable year beginning January 1, 2002 and ending June 30, 2002	Calendar year 2001

Used Property Limitation

If a taxpayer places in service during the taxable year three (3) items of used property, each with a cost of sixty thousand dollars ($60,000), the taxpayer must select the entire cost of two (2) of the items and only thirty thousand dollars ($30,000) of the cost of the third item. The taxpayer may not select a portion of the cost of each of the three (3) items. The remaining thirty thousand dollars ($30,000) of the third item does not qualify for the investment tax credit nor the property tax exemption since it is not qualified investment. The selection by a taxpayer is made by taking the cost of the used property into account in computing the investment tax credit or the property tax exemption for a taxable year.

Assume the same facts as above. The taxpayer may elect the property tax exemption on any of the three (3) items, limited to the amount included as qualified investment if the item qualifies as personal property and the taxpayer had a negative Idaho taxable in the second preceding taxable year.

Rule 721—Credit for Idaho Research Activities

Election to be Treated as a Start-Up Company

If the taxpayer's fiscal year beginning in 2001 is the 8th such taxable year beginning after December 31, 1993 in which the taxpayer had Idaho qualified research expenses, the fixed-base percentage is one-half (1/2) of the percentage that the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years.

Rule 785—Credits: Pass-Through Entities

Limitations

Partnership XYZ has three (3) individual partners who each are entitled to a one-third (1/ 3) share of the partnership profits. The partnership contributed three thousand dollars ($3,000) to an educational institution. The contribution qualifies for the credit provided by Section 63-3029A, Idaho Code. One-third (1/3) of the contribution, one thousand dollars ($1,000), passes through to Partner X who files a joint return. He is allowed a credit of fifty percent (50%) of the amount contributed, but is limited to the lesser of two hundred dollars ($200) or twenty percent (20%) of his total income tax liability.

Assume the same facts as above except Partner X also contributed two hundred dollars ($200) to a qualifying educational institution. Partner X is treated as contributing one thousand two hundred dollars ($1,200), to a qualifying educational institution. Since fifty percent (50%) of his contributions, six hundred dollars ($600) exceeds the limitation, the credit is limited to the lesser of two hundred dollars ($200) or twenty percent (20%) of his total income tax liability. The credit is not increased because part of the contribution was from Partner X as an individual and part from the partnership.

Rule 793—Transfer of Credit: Transferee

Carryover Period

Taxpayer A earned the broadband equipment investment credit in his taxable year beginning in 2002. He claimed part of the credit on his return for that year. In October of 2003, Taxpayer A sold the remaining credit to Taxpayer B, an intermediary. Taxpayer B resold the credit in May of 2004 to Taxpayer C. Taxpayer C claimed the credit on his original return for taxable year beginning in 2003, which he filed in November of 2004. Taxpayer C has a thirteen (13) year carryover remaining, the same as Taxpayer B would have been entitled to.

Rule 805—Joint Returns

A married couple files a joint return before April 15 in the year due and desires to change their federal and state election to file separately. They may do so only if they file the separate returns on or before April 15.

Rule 823—Corporate Estimated Payments: Short Taxable Year

X, a corporation filing on a calendar year basis, changes to a fiscal year beginning September 1, 1993 and ending August 31, 1994. For the short taxable year, January 1, 1993, to August 31, 1993, X must make estimated payments of twenty-five percent (25%) of its minimum payment on April 15, 1993, and June 15, 1993. The remaining payment of fifty percent (50%) of the minimum payment, twenty-five percent (25%) for the third payment plus twenty-five percent (25%) for the fourth payment, is due on August 15, 1993, the fifteenth day of the last month of the short taxable year.

If, in the example above, X does not meet the requirement to make estimated payments until June 15, 1993, X is required to pay fifty percent (50%) of the estimated tax, twenty-five percent (25%) for the third payment and twenty-five percent (25%) for the fourth payment. No payment for the first and second reporting period is required on August 15, 1993, the fifteenth day of the last month of the short taxable year.

Rule 548—Sales Factor: Sale of a Service

In-Person Services Examples. In these examples assume, unless otherwise stated, that the taxpayer is taxable in each state to which its receipts would be assigned. Note that for purposes of the examples it is irrelevant whether the services are performed by an employee of the taxpayer or by an independent contractor acting on the taxpayer's behalf.

Example (i). Salon Corp has retail locations in this state and in other states where it provides hair cutting services to individual and business customers, the latter of whom are paid for through the means of a company account. The receipts from sales of services provided at Salon Corp's in-state locations are in this state. The receipts from sales of services provided at Salon Corp's locations outside this state, even when provided to residents of this state, are not receipts from in-state sales.

Example (ii). Landscape Corp provides landscaping and gardening services in this state and in neighboring states. Landscape Corp provides landscaping services at the in-state vacation home of an individual who is a resident of another state and who is located outside this state at the time the services are performed. The receipts from sale of services provided at the in-state location are in this state.

Example (iii). Same facts as in Example (ii), except that Landscape Corp provides the landscaping services to Retail Corp, a corporation with retail locations in several states, and the services are with respect to those locations of Retail Corp that are in this state and in other states. The receipts from the sale of services provided to Retail Corp are in this state to the extent the services are provided in this state.

Example (iv). Camera Corp provides camera repair services at an in-state retail location to walk-in individual and business customers. In some cases, Camera Corp actually repairs a camera that is brought to its in-state location at a facility that is in another state. In these cases, the repaired camera is then returned to the customer at Camera Corp's in-state location. The receipts from sale of these services are in this state.

Example (v). Same facts as in Example (iv), except that a customer located in this state mails the camera directly to the out-of-state facility owned by Camera Corp to be fixed,and receives the repaired camera back in this state by mail. The receipts from sale of the service are in this state.

Example (vi). Teaching Corp provides seminars in this state to individual and business customers. The seminars and the materials used in connection with the seminars are prepared outside the state, the teachers who teach the seminars include teachers that are resident outside the state, and the students who attend the seminars include students that are resident outside the state. Because the seminars are taught in this state the receipts from sales of the services are in this state.

Delivery to or on Behalf of a Customer by Physical Means Whether to an Individual or Business Customer Examples:

Example (i). Direct Mail Corp, a corporation based outside this state, provides direct mail services to its customer, Business Corp. Business Corp contracts with Direct Mail Corp to deliver printed fliers to a list of customers that is provided to it by Business Corp. Some of Business Corp's customers are in this state and some of those customers are in other states. Direct Mail Corp will use the postal service to deliver the printed fliers to Business Corp's customers. The receipts from the sale of Direct Mail Corp's services to Business Corp are assigned to this state to the extent that the services are delivered on behalf of Business Corp to this state customers (i.e., to the extent that the fliers are delivered on behalf of Business Corp to Business Corp's intended audience in this state).

Example (ii). Ad Corp is a corporation based outside this state that provides advertising and advertising-related services in this state and in neighboring states. Ad Corp enters into a contract at a location outside this state with an individual customer who is not a resident of this state to design advertisements for billboards to be displayed in this state, and to design fliers to be mailed to residents in this state. All of the design work is performed outside this state. The receipts from the sale of the design services are in this state because the service is physically delivered on behalf of the customer to the customer's intended audience in this state.

Example (iii). Same facts as example (ii), except that the contract is with a business customer that is based outside this state. The receipts from the sale of the design services are in this state because the services are physically delivered on behalf of the customer to the customer's intended audience in this state.

Example (iv). Fulfillment Corp, a corporation based outside this state, provides product delivery fulfillment services in this state and in neighboring states to Sales Corp, a corporation located outside this state that sells tangible personal property through a mail order catalog and over the Internet to customers. In some cases when a customer purchases tangible personal property from Sales Corp to be delivered in this state, Fulfillment Corp will, pursuant to its contract with Sales Corp, deliver that property from its fulfillment warehouse located outside this state. The receipts from the sale of the fulfillment services of Fulfillment Corp to Sales Corp are assigned to this state to the extent that Fulfillment Corp's deliveries on behalf of Sales Corp are to recipients in this state.

Example (v). Software Corp, a software development corporation, enters into a contract with a business customer, Buyer Corp, which is physically located in this state, to develop custom software to be used in Buyer Corp's business. Software Corp develops the custom software outside this state, and then physically installs the software on Buyer Corp's computer hardware located in this state. The development and sale of the custom software is properly characterized as a service transaction, and the receipts from the sale are assigned to this state because the software is physically delivered to the customer in this state.

Example (vi). Same facts as Example (v), except that Buyer Corp has offices in this state and several other states, but is commercially domiciled outside this state and orders the software from a location outside this state. The receipts from the development and sale of the custom software service are assigned to this state because the software is physically delivered to the customer in this state.

Delivery to a Customer by Electronic Transmission Examples:

In these examples, unless otherwise stated, assume that the taxpayer is not related to either the customer to which the service is delivered. Further, assume if relevant, unless otherwise stated, that the safe harbor set forth at subpart 548.03.b.ii.B.dd above does not apply.

Example (i). Support Corp, a corporation that is based outside this state, provides software support and diagnostic services to individual and business customers that have previously purchased certain software from third-party vendors. These individual and business customers are located in this state and other states. Support Corp supplies its services on a case by case basis when directly contacted by its customer. Support Corp generally provides these services through the Internet but sometimes provides these services by phone. In all cases, Support Corp verifies the customer's account information before providing any service. Using the information that Support Corp verifies before performing a service, Support Corp can determine where its services are received, and therefore must assign its receipts to these locations. The receipts from sales made to Support Corp's individual and business customers are in this state to the extent that Support Corp's services are received in this state. *See* parts 548.03.b.ii.A. and B. above.

Example (ii). Online Corp, a corporation based outside this state, provides web-based services through the means of the Internet to individual customers who are resident in this state and in other states. These customers access Online Corp's web services primarily in their states of residence, and sometimes, while traveling, in other states. For a substantial portion of its receipts from the sale of services, Online Corp can either determine the state or states where the services are received, or, where it cannot determine the state or states, it has sufficient information regarding the place of receipt to reasonably approximate the state or states. However, Online Corp cannot determine or reasonably approximate the state or states of receipt for all of the sales of its services. Assuming that Online Corp reasonably believes, based on all available information, that the geographic distribution of the receipts from sales for which it cannot determine or reasonably approximate the location of the receipt of its services generally tracks those for which it does have this information, Online Corp must assign to this state the receipts from sales for which it does not know the customers' location in the same proportion as those receipts for which it has this information. *See* Rule 546.03.b.

Example (iii). Same facts as in Example (ii), except that Online Corp reasonably believes that the geographic distribution of the receipts from sales for which it cannot determine or reasonably approximate the location of the receipt of its web-based services do not generally track the sales for which it does have this information. Online Corp must assign the receipts from sales of its services for which it lacks information as provide to its individual customers using the customers' billing addresses. *See* part 548.03.b.ii.A above.

Example (iv). Net Corp, a corporation based outside this state, provides web-based services to a business customer, Business Corp, a company with offices in this state and two neighboring states. Particular employees of Business Corp access the services from computers in each Business Corp office. Assume that Net Corp determines that Business Corp employees in this state were responsible for 75% of Business Corp's use of Net Corp's services, and Business Corp employees in other states were responsible for 25% of Business Corp's use of Net Corp's services. In this case, 75% of the receipts from the sale are received in this state. *See* subpart 548.03.b.ii.A.aa above. Assume alternatively that Net Corp lacks sufficient information regarding the location or locations where Business Corp's employees used the services to determine or reasonably approximate the location or locations. Under these circumstances, if Net Corp derives 5% or less of its receipts from sales to Business Corp, Net Corp must assign the receipts under subpart 548.03.b.ii.B.cc above to the state where Business Corp principally managed the contract, or if that state is not reasonably determinable, to the state where Business Corp placed the order for the services, or if that state is not reasonably determinable, to the state of Business Corp's billing address. If Net Corp derives more than 5% of its receipts from sales of services to Business Corp, Net Corp is required to identify the state in which its contract of sale is principally managed by Business Corp and must assign the receipts to that state.

Example (v). Net Corp, a corporation based outside this state, provides web-based services through the means of the Internet to more than 250 individual and business customers in this state and in other states. Assume that for each customer Net Corp cannot determine the state or states where its web services are actually received, and lacks sufficient information regarding the place of receipt to reasonably approximate the state or states. Also assume that Net Corp does not derive more than 5% of its receipts from sales of services to a single customer. Net Corp may apply the safe harbor stated in subpart 548.03.b.ii.B.dd above, and may assign its receipts using each customer's billing address.

Services Delivered Electronically Through or on Behalf of an Individual or Business Customer Examples:

Example (i). Cable TV Corp, a corporation that is based outside of this state, has two revenue streams. First, Cable TV Corp sells advertising time to business customers pursuant to which the business customers' advertisements will run as commercials during Cable TV Corp's televised programming. Some of these business customers, though not all of them, have a physical presence in this state. Second, Cable TV Corp sells monthly subscriptions to individual customers in this state and in other states. The receipts from Cable TV Corp's sale of advertising time to its business customers are assigned to this state to the extent that the audience for Cable TV Corp's televised programming during which the advertisements run is in this state. *See* part 548.03.b.iii.A above. If Cable TV Corp is unable to determine the actual location of its audience for the programming, and lacks sufficient information regarding audience location to reasonably approximate the location, Cable TV Corp must approximate its Idaho audience using the percentage that reflects the ratio of its this state subscribers in the geographic area in which Cable TV Corp's televised programming featuring the advertisements is delivered relative to its total number of subscribers in that area. *See* subpart 548.03.b.iii.C.aa above. To the extent that Cable TV Corp's sales of monthly subscriptions represent the sale of a service, the receipts from these sales are properly assigned to this state in any case in which the programming is received by a customer in this state. *See* part 548.03.b.ii.A above. In any case in which Cable TV Corp cannot determine the actual location where the programming is received, and lacks sufficient information regarding the location of receipt to reasonably approximate the location, the receipts from these sales of Cable TV Corp's monthly subscriptions are assigned to this state where its customer's billing address is in this state. *See* part 548.03.b.ii.A.bb above. Note that whether and to the extent that the monthly subscription fee represents a fee for a service or for a license of intangible property does not affect the analysis or result as to the state or states to which the receipts are properly assigned. *See* Rule 549.05.

Example (ii). Network Corp, a corporation that is based outside of this state, sells advertising time to business customers pursuant to which the customers' advertisements will run as commercials during Network Corp's televised programming as distributed by unrelated cable television and satellite television transmission companies. The receipts from Network Corp's sale of advertising time to its business customers are assigned to this state to the extent that the audience for Network Corp's televised programming during which the advertisements will run is in this state. *See* part 548.03.b.iii.A above. If Network Corp cannot determine the actual location of the audience for its programming during which the advertisements will run, and lacks sufficient information regarding audience location to reasonably approximate the location, Network Corp must approximate the receipts from sales of advertising that constitute this state sales by multiplying the amount of advertising receipts by a percentage that reflects the ratio of the this state population in the specific geographic area in which the televised programming containing the advertising is run relative to the total population in that area. *See* part 548.03.b.iii.C.bb. and cc. above.

Example (iii). Web Corp, a corporation that is based outside this state, provides Internet content to viewers in this state and other states. Web Corp sells advertising space to business customers pursuant to which the customers' advertisements will appear in connection with Web Corp's Internet content. Web Corp receives a fee for running the advertisements that is determined by reference to the number of times the advertisement is viewed or clicked upon by the viewers of its website. The receipts from Web Corp's sale of advertising space to its business customers are assigned to this state to the extent that the viewers of the Internet content are in this state, as measured by viewings or clicks. *See* part 548.03.b.iii.A above. If Web Corp is unable to determine the actual location of its viewers, and lacks sufficient information regarding the location of its viewers to reasonably approximate the location, Web Corp must approximate the amount of its this state receipts by multiplying the amount of receipts from sales of advertising by a percentage that reflects the this state population in the specific geographic area in which the content containing the advertising is delivered relative to the total population in that area. *See* part 548.03.b.iii.C above.

Example (iv). Retail Corp, a corporation that is based outside of this state, sells tangible property through its retail stores located in this state and other states, and through a mail order catalog. Answer Co, a corporation that operates call centers in multiple states, contracts with Retail Corp to answer telephone calls from individuals placing orders for products found in Retail Corp's catalogs. In this case, the phone answering services of Answer Co are being delivered to Retail Corp's customers and prospective customers. Therefore, Answer Co is delivering a service electronically to Retail Corp's customers or prospective customers on behalf of Retail Corp, and must assign the proceeds from this service to the state or states from which the phone calls are placed by the customers or prospective customers. If Answer Co cannot determine the actual locations from which phone calls are placed, and lacks sufficient information regarding the locations to reasonably approximate the locations, Answer Co must approximate the amount of its this state receipts by multiplying the amount of its fee from Retail Corp by a percentage that reflects the this state population in the specific geographic area from which the calls are placed relative to the total population in that area. *See* subpart 548.03.b.iii.C.aa above.

Example (v). Web Corp, a corporation that is based outside of this state, sells tangible property to customers via its Internet website. Design Co. designed and maintains Web Corp's website, including making changes to the site based on customer feedback received through the site. Design Co.'s services are delivered to Web Corp, the proceeds from which are assigned pursuant to subparagraph 548.03.b.ii above. The fact that Web Corp's customers and prospective customers incidentally benefit from Design Co.'s services, and may even interact with Design Co in the course of providing feedback, does not transform the service into one delivered "on behalf of" Web Corp to Web Corp's customers and prospective customers.

Example (vi). Wholesale Corp, a corporation that is based outside this state, develops an Internet-based information database outside this state and enters into a contract with Retail Corp whereby Retail Corp will market and sell access to this database to end users. Depending on the facts, the provision of database access may be either the sale of a service or the license of intangible property or may have elements of both, but for purposes of analysis it does not matter. *See* Rule 549.05. Assume that on the particular facts applicable in this example Wholesale Corp is selling database access in transactions properly characterized as involving the performance of a service. When an end user purchases access to Wholesale Corp's database from Retail Corp, Retail Corp in turn compensates Wholesale Corp in connection with that transaction. In this case, Wholesale Corp's services are being delivered through Retail Corp to the end user. Wholesale Corp must assign its receipts from sales to Retail Corp to the state or states in which the end users receive access to Wholesale Corp's database. If Wholesale Corp cannot determine the state or states where the end users actually receive access to Wholesale Corp's database, and lacks sufficient information regarding the location from which the end users access the database to reasonably approximate the location, Wholesale Corp must approximate the extent to which its services are received by end users in this state by using a percentage that reflects the ratio of the this state population in the specific geographic area in which Retail Corp regularly markets and sells Wholesale Corp's database relative to the total population in that area. *See* subpart 548.03.b.iii.C.bb above. Note that it does not matter for purposes of the analysis whether Wholesale Corp's sale of database access constitutes a service or a license of intangible property, or some combination of both. *See* Rule 549.05.

Professional Services Examples:

Assume also that the customer is not a related party and that the safe harbor set forth at part 548.04.c.i.C above does not apply.

Example (i). Broker Corp provides securities brokerage services to individual customers who are resident in this state and in other states. Assume that Broker Corp knows the state of primary residence for many of its customers, and where it does not know this state of primary residence, it knows the customer's billing address. Also assume that Broker Corp does not derive more than 5% of its receipts from sales of all services from any one individual customer. If Broker Corp knows its customer's state of primary residence, it shall assign the receipts to that state. If Broker Corp does not know its customer's state of primary residence, but rather knows the customer's billing address, it shall assign the receipts to that state. *See* part 548.04.c.i.A above.

Example (ii). Same facts as in Example (i), except that Broker Corp has several individual customers from whom it derives, in each instance, more than 5% of its receipts from sales of all services. Receipts from sales to customers from whom Broker Corp derives 5% or less of its receipts from sales of all services must be assigned as described in example 1. For each customer from whom it derives more than 5% of its receipts from sales of all services, Broker Corp is required to determine the customer's state of primary residence and must assign the receipts from the services provided to that customer to that state. In any case in which a 5% customer's state of primary residence is this state, receipts from a sale made to that customer must be assigned to this state; in any case in which a 5% customer's state of primary residence is not this state receipts from a sale made to that customer are not assigned to this state.

Example (iii). Architecture Corp provides building design services as to buildings located, or expected to be located, in this state to individual customers who are resident in this state and other states, and to business customers that are based in this state and other states. The receipts from Architecture Corp's sales are assigned to this state because the locations of the buildings to which its design services relate are in this state, or are expected to be in this state. For purposes of assigning these receipts, it is not relevant where, in the case of an individual customer, the customer primarily resides or is billed for the services, and it is not relevant where, in the case of a business customer, the customer principally manages the contract, placed the order for the services, or is billed for the services. Further, these receipts are assigned to this state even if Architecture Corp's designs are either physically delivered to its customer in paper form in a state other than this state or are electronically delivered to its customer in a state other than this state. *See* subparagraphs 548.04.b.ii and .c.ii above.

Example (iv). Law Corp provides legal services to individual clients who are resident in this state and in other states. In some cases, Law Corp may prepare one or more legal documents for its client as a result of these services and/or the legal work may be related to litigation or a legal matter that is ongoing in a state other than where the client is resident. Assume that Law Corp knows the state of primary residence for many of its clients, and where it does not know this state of primary residence, it knows the client's billing address. Also assume that Law Corp does not derive more than 5% of its receipts from sales of all services from any one individual client. If Law Corp knows its client's state of primary residence, it shall assign the receipts to that state. If Law Corp does not know its client's state of primary residence, but rather knows the client's billing address, it shall assign the receipts to that state. For purposes of the analysis it is irrelevant whether the legal documents relating to the service are mailed or otherwise delivered to a location in another state, or the litigation or other legal matter that is the underlying predicate for the services is in another state. *See* subparagraphs 548.04.b.ii and .c.i above.

Example (v). Law Corp provides legal services to several multistate business clients. In each case, Law Corp knows the state in which the agreement for legal services that governs the client relationship is principally managed by the client. In one case, the agreement is principally managed in this state; in the other cases, the agreement is principally managed in a state other than this state. If the agreement for legal services is principally managed by the client in this state the receipts from sale of the services are assigned to this state; in the other cases, the receipts are not assigned to this state. In the case of receipts that are assigned to this state, the receipts are so assigned even if (1) the legal documents relating to the service are mailed or otherwise delivered to a location in another state, or (2) the litigation or other legal matter that is the underlying predicate for the services is in another state. *See* subparagraphs 548.04.b.ii and .c.i above.

Example (vi). Consulting Corp, a company that provides consulting services to law firms and other customers, is hired by Law Corp in connection with legal representation that Law Corp provides to Client Co.

Specifically, Consulting Corp is hired to provide expert testimony at a trial being conducted by Law Corp on behalf of Client Co. Client Co pays for Consulting Corp's services directly. Assuming that Consulting Corp knows that its agreement with Law Co is principally managed by Law Corp in this state, the receipts from the sale of Consulting Corp's services are assigned to this state. It is not relevant for purposes of the analysis that Client Co is the ultimate beneficiary of Consulting Corp's services, or that Client Co pays for Consulting Corp's services directly. *See* part 548.04.c.i.B above.

Example (vii). Bank Corp provides financial custodial services to 100 individual customers who are resident in this state and in other states, including the safekeeping of some of its customers' financial assets. Assume for purposes of this example that Bank Corp knows the state of primary residence for many of its customers, and where it does not know this state of primary residence, it knows the customer's billing address. Also assume that Bank Corp does not derive more than 5% of its receipts from sales of all of its services from any single customer. Note that because Bank Corp does not have more than 250 customers, it may not apply the safe harbor for professional services stated in part 548.04.c.i.C above. If Bank Corp knows its customer's state of primary residence, it must assign the receipts to that state. If Bank Corp does not know its customer's state of primary residence, but rather knows the customer's billing address, it must assign the receipts to that state. Bank Corp's receipts are assigned to this state if the customer's state of primary residence (or billing address, in cases where it does not know the customer's state of primary residence) is in this state, even if Bank Corp's financial custodial work, including the safekeeping of the customer's financial assets, takes place in a state other than this state. *See* part 548.04.c.i.A above.

Example (viii). Same facts as Example (vii), except that Bank Corp has more than 250 customers, individual or business. Bank Corp may apply the safe harbor for professional services stated in part 548.04.c.i.C above, and may assign its receipts from sales to a state or states using each customer's billing address.

Example (ix). Same facts as Example (viii), except that Bank Corp derives more than 5% of its receipts from sales from a single individual customer. As to the sales made to this customer, Bank Corp is required to determine the individual customer's state of primary residence and must assign the receipts from the service or services provided to that customer to that state. *See* part 548.04.c.i.A and subparagraph 548.04.c.iii above. Receipts from sales to all other customers are assigned as described in Example (viii).

Example (x). Advisor Corp, a corporation that provides investment advisory services, provides these advisory services to Investment Co. Investment Co is a multistate business client of Advisor Corp that uses Advisor Corp's services in connection with investment accounts that it manages for individual clients, who are the ultimate beneficiaries of Advisor Corp's services. Assume that Investment Co's individual clients are persons that are resident in numerous states, which may or may not include this state. Assuming that Advisor Corp knows that its agreement with Investment Co is principally managed by Investment Co in this state, receipts from the sale of Advisor Corp's services are assigned to this state. It is not relevant for purposes of the analysis that the ultimate beneficiaries of Advisor Corp's services may be Investment Co's clients, who are residents of numerous states. *See* part 548.04.c.i.B above.

Example (xi). Advisor Corp provides investment advisory services to Investment Fund LP, a partnership that invests in securities and other assets. Assuming that Advisor Corp knows that its agreement with Investment Fund LP is principally managed by Investment Fund LP in this state, receipts from the sale of Advisor Corp's services are assigned to this state. *See* part 548.04.c.i.B above. Note that it is not relevant for purposes of the analysis that the partners in Investment Fund LP are residents of numerous states.

Example (xii). Design Corp is a corporation based outside this state that provides graphic design and similar services in this state and in neighboring states. Design Corp enters into a contract at a location outside this state with an individual customer to design fliers for the customer. Assume that Design Corp does not know the individual customer's state of primary residence and does not derive more than 5% of its receipts from sales of services from the individual customer. All of the design work is performed outside this state. Receipts from the sale are in this state if the customer's billing address is in this state. *See* Part 548.04.c.i.A above.

Rule 549—Sales Factor: License or Lease or Intangible Property

License of Intangible Property where Substance of Transaction Resembles a Sale of Goods or Services Examples:

In these examples, assume that the customer is not a related party.

Example (i). Crayon Corp and Dealer Co enter into a license contract under which Dealer Co as licensee is permitted to use trademarks that are owned by Crayon Corp in connection with Dealer Co's sale of certain products to retail customers. Under the contract, Dealer Co is required to pay Crayon Corp a licensing fee that is a fixed percentage of the total volume of monthly sales made by Dealer Co of products using the Crayon Corp trademarks. Under the contract, Dealer Co is permitted to sell the products at multiple store locations, including store locations that are both within and without this state. Further, the licensing fees that are paid by Dealer Co are broken out on a per-store basis. The licensing fees paid to Crayon Corp by Dealer Co represent fees from the license of a marketing intangible. The portion of the fees to be assigned to this state are determined by multiplying the fees by a percentage that reflects the ratio of Dealer Co's receipts that are derived from its this state stores relative to Dealer Co's total receipts. *See* subsection 549.02 above.

Example (ii). Program Corp, a corporation that is based outside this state, licenses programming that it owns to licensees, such as cable networks, that in turn will offer the programming to their customers on television or other media outlets in this state and in all other U.S. states. Each of these licensing contracts constitutes the license of a marketing intangible. For each licensee, assuming that Program Corp lacks evidence of the actual number of viewers of the programming in this state, the component of the licensing fee paid to Program Corp by the licensee that constitutes Program Corp's this state receipts is determined by multiplying the amount of the licensing fee by a percentage that reflects the ratio of the Idaho audience of the licensee for the programming relative to the licensee's total U.S. audience for the programming. *See* subsection .05 above. Note that the analysis and result as to the state or states to which receipts are properly assigned would be the same to the extent that the substance of Program Corp's licensing transactions may be determined to resemble a sale of goods or services, instead of the license of a marketing intangible. *See* subsection 549.05 above.

Example (iii). Moniker Corp enters into a license contract with Wholesale Co. Pursuant to the contract Wholesale Co is granted the right to use trademarks owned by Moniker Corp to brand sports equipment that is to be manufactured by Wholesale Co or an unrelated entity, and to sell the manufactured equipment to unrelated companies that will ultimately market the equipment to consumers in a specific geographic region, including a foreign country. The license agreement confers a license of a marketing intangible, even though the trademarks in question will be affixed to property to be manufactured. In addition, the license of the marketing intangible is for the right to use the intangible property in connection with sales to be made at wholesale rather than directly to retail customers. The component of the licensing fee that constitutes the Idaho receipts of Moniker Corp is determined by multiplying the amount of the fee by a percentage that reflects the ratio of the Idaho population in the specific geographic region relative to the total population in that region. *See* subsection 549.02 above. If Moniker Corp is able to reasonably establish that the marketing intangible was materially used throughout a foreign country, then the population of that country will be included in the population ratio calculation. However, if Moniker Corp is unable to reasonably establish that the marketing intangible was materially used in the foreign country in areas outside a particular major city; then none of the foreign country's population beyond the population of the major city is include in the population ratio calculation.

Example (iv). Formula, Inc and Appliance Co enter into a license contract under which Appliance Co is permitted to use a patent owned by Formula, Inc to manufacture appliances. The license contract specifies that Appliance Co is to pay Formula, Inc a royalty that is a fixed percentage of the gross receipts from the products that are later sold. The contract does not specify any other fees. The appliances are both manufactured and sold in this state and several other states. Assume the licensing fees are paid for the license of a production intangible, even though the royalty is to be paid based upon the sales of a manufactured product (i.e., the license is not one that includes a marketing intangible). Because the Tax Commission can reasonably establish that the actual use of the intangible property takes place in part in this state, the royalty is assigned based to the location of that use rather than to location of the licensee's commercial domicile, in accordance with subsection 549.01 above. It is presumed that the entire use is in this state except to the extent that the taxpayer can demonstrate that the actual location of some or all of the use takes place outside this state. Assuming that Formula, Inc can demonstrate the percentage of manufacturing that takes place in this state using the patent relative to the manufacturing in other states, that percentage of the total licensing fee paid to Formula, Inc under the contract will constitute Formula, Inc's this state receipts. *See* subsection .05 above.

Example (v). Axel Corp enters into a license agreement with Biker Co in which Biker Co is granted the right to produce motor scooters using patented technology owned by Axel Corp, and also to sell the scooters by marketing the fact that the scooters were manufactured using the special technology. The contract is a license of both a marketing and production intangible, i.e., a mixed intangible. The scooters are manufactured outside this state. Assume that Axel Corp lacks actual information regarding the proportion of Biker Co.'s receipts that are derived from this state customers. Also assume that Biker Co is granted the right to sell the scooters in a U.S. geographic region in which the Idaho population constitutes 25% of the total population during the period in question. The licensing contract requires an upfront licensing fee to be paid by Biker Co to Axel Corp and does not specify what percentage of the fee derives from Biker Co's right to use Axel Corp's patented technology. Because the fees for the license of the marketing and production intangible are not separately and reasonably stated in the contract, it is presumed that the licensing fees are paid entirely for the license of a marketing intangible, unless either the taxpayer or the Tax Commission reasonably establishes otherwise. Assuming that neither party establishes otherwise, 25% of the licensing fee constitutes this state receipts. *See* subsections 549.02 and .04 above.

Example (vi). Same facts as Example (v), except that the license contract specifies separate fees to be paid for the right to produce the motor scooters and for the right to sell the scooters by marketing the fact that the scooters were manufactured using the special technology. The licensing contract constitutes both the license of a marketing intangible and the license of a production intangible. Assuming that the separately stated fees are reasonable, the Tax Commission will: (1) assign no part of the licensing fee paid for the production intangible to this state, and (2) assign 25% of the licensing fee paid for the marketing intangible to this state. *See* subsection 549.04 above.

Example (vii). Better Burger Corp, which is based outside this state, enters into franchise contracts with franchisees that agree to operate Better Burger restaurants as franchisees in various states. Several of the Better Burger Corp franchises are in this state. In each case, the franchise contract between the individual and Better Burger provides that the franchisee is to pay Better Burger Corp an upfront fee for the receipt of the franchise and monthly franchise fees, which cover, among other things, the right to use the Better Burger name and service marks, food processes and cooking know-how, as well as fees for management services. The upfront fees for the receipt of the Idaho franchises constitute fees paid for the licensing of a marketing intangible. These fees constitute this state receipts because the franchises are for the right to make this state sales. The monthly franchise fees paid by this state franchisees constitute fees paid for (1) the license of marketing intangibles (the Better Burger name and service marks), (2) the license of production intangibles (food processes and know-how) and (3) personal services (management fees). The fees paid for the license of the marketing intangibles and the production intangibles constitute this state receipts because in each case the use of the intangibles is to take place in this state. *See* subsections 549.02 and .03 above. The fees paid for the personal services are to be assigned pursuant to Rule 548.

Example (viii). Online Corp, a corporation based outside this state, licenses an information database through the means of the Internet to individual customers that are resident in this state and in other states. These customers access Online Corp's information database primarily in their states of residence, and sometimes, while traveling, in other states. The license is a license of intangible property that resembles a sale of goods or services and are assigned in accordance with subsection 549.05 above. If Online Corp can determine or reasonably approximate the state or states where its database is accessed, it must do so. Assuming that Online Corp cannot determine or reasonably approximate the location where its database is accessed, Online Corp must assign the receipts made to the individual customers using the customers' billing addresses to the extent known. Assume for purposes of this example that Online Corp knows the billing address for each of its customers. In this case, Online Corp's receipts from sales made to its individual customers are in this state in any case in which the customer's billing address is in this state. *See* Rule 548.03.b.ii.A.

Example (ix). Net Corp, a corporation based outside this state, licenses an information database through the means of the Internet to a business customer, Business Corp, a company with offices in this state and two neighboring states. The license is a license of intangible property that resembles a sale of goods or services and are assigned in accordance with subsection 549.05 above. Assume that Net Corp cannot determine where its database is accessed but reasonably approximates that 75% of Business Corp's database access took place in this state, and 25% of Business Corp's database access took place in other states. In that case, 75% of the receipts from database access is in this state. Assume alternatively that Net Corp lacks sufficient information regarding the location where its database is accessed to reasonably approximate the location. Under these circumstances, if Net Corp derives 5% or less of its receipts from database access from Business Corp, Net Corp must assign the receipts under Rule 548.03.b.ii.B to the state where Business Corp principally managed the contract, or if that state is not reasonably determinable to the state where Business Corp placed the order for the services, or if that state is not reasonably determinable to the state of Business Corp's billing address. If Net Corp derives more than 5% of its receipts from database access from Business Corp, Net Corp is required to identify the state in which its contract of sale is principally managed by Business Corp and must assign the receipts to that state. *See* Rule 548.03.b.ii.B.

Example (x). Net Corp, a corporation based outside this state, licenses an information database through the means of the Internet to more than 250 individual and business customers in this state and in other states. The license is a license of intangible property that resembles a sale of goods or services and receipts from that license are assigned in accordance with subsection 549.05 above. Assume that Net Corp cannot determine or reasonably approximate the location where its information database is accessed. Also assume that Net Corp does not derive more than 5% of its receipts from sales of database access from any single customer. Net Corp may apply the safe harbor stated in Rule 548.03.b.ii.B.dd and may assign its receipts to a state or states using each customer's billing address.

Example (xi). Web Corp, a corporation based outside of this state, licenses an Internet-based information database to business customers who then sublicense the database to individual end users that are resident in this state and in other states. These end users access Web Corp's information database primarily in their states of residence, and sometimes, while traveling, in other states. Web Corp's license of the database to its customers includes the right to sublicense the database to end users, while the sublicenses provide that the rights to access and use the database are limited to the end users' own use and prohibit the individual end users from further sublicensing the database. Web Corp receives a fee from each customer based upon the number of sublicenses issued to end users. The license is a license of intangible property that resembles a sale of goods or services and are assigned by applying the rules set forth in Rule 548.03.b.iii. *See* subsection 549.05 above. If Web Corp can determine or reasonably approximate the state or states where its database is accessed by end users, it must do so. Assuming that Web Corp lacks sufficient information from which it can determine or reasonably approximate the location where its database is accessed by end users, Web Corp must approximate the extent to which its database is accessed in this state using a percentage that represents the ratio of the Idaho population in the specific geographic area in which Web Corp's customer sublicenses the database access relative to the total population in that area. *See* Rule 548.03.b.iii.C.

Rule 550—Sales Factor: Sale of Intangible Property

Sale of Intangible Property Examples.

Example (i). Airline Corp, a corporation based outside Idaho, sells its rights to use several gates at an airport located in Idaho to Buyer Corp, a corporation that is based outside Idaho. The contract of sale is negotiated and signed outside of Idaho. The receipts from the sale are in Idaho because the intangible property sold is a contract right that authorizes the holder to conduct a business activity solely in Idaho. *See* subsection 550.01 above.

Example (ii). Wireless Corp, a corporation based outside Idaho, sells a license issued by the Federal Communications Commission (FCC) to operate wireless telecommunications services in a designated area in Idaho to Buyer Corp, a corporation that is based outside Idaho. The contract of sale is negotiated and signed outside of Idaho. The receipts from the sale are in Idaho because the intangible property sold is a government license that authorizes the holder to conduct business activity solely in Idaho. *See* paragraph 550.01.a above.

Example (iii). Same facts as in Example (ii) except that Wireless Corp sells to Buyer Corp an FCC license to operate wireless telecommunications services in a designated area in Idaho and an adjacent state. Wireless Corp must attempt to reasonably approximate the extent to which the intangible property is used in or may be used in Idaho. For purposes of making this reasonable approximation, Wireless Corp may rely upon credible data that identifies the percentage of persons that use wireless telecommunications in the two states covered by the license. *See* paragraph 550.01.a above.

Example (iv). Sports League Corp, a corporation that is based outside Idaho, sells the rights to broadcast the sporting events played by the teams in its league in all 50 U.S. states to Network Corp. Network Corp.'s commercial domicile is in a state other than Idaho. Paragraph 550.01.a above does not apply in this situation because section 63-3027(13)(e), Idaho Code, specifically addresses broadcast right sales. Pursuant to section 63-3027(13)(e), the sales are not in this state because the commercial domicile of Network Corp. is not in this state.