

Metro Business Income Tax Administrative Rule 7.07 – 1115

7.07 – 1115 Apportionment for Providers of Electronic or Telephonic Services

If the income of a service provider of electronic or telephonic services is derived from business activity occurring both within and without the Metro district, the gross income earned within the Metro district shall be determined as earned at the situs of delivery and/or use of such services.

Example 1: Gross incomes from delivery and/or use of electronic or electrical signals shall be included in the numerator of the apportionment fraction for the Metro district if the location of the use of the electronic or electrical signals are within the Metro district.

Example 2: Gross incomes from the delivery and/or use of digital information other than general telephone services (such as computer services delivered via phone lines or coaxial cable) shall be included in the numerator of the apportionment fraction for Metro district if such digital information is used within Metro district. Examples include monthly subscription payments received from customers of internet service providers and per-use payments received from customers to view online content.

Example 3: Gross incomes from the delivery and/or use of telephonic services generated by electromagnetic radiation (e.g., cell phones and satellite phones) is included in the numerator of the apportionment factor if the service is billed or paid from an address located within the Metro district.

[Note: Since cell phone usage is generally mobile in nature, it is assumed that usage will be uniform over boundaries, therefore, it is determined the most logical assignment of incomes is to the billing address of the user of such services.]

Example 4: Gross incomes from the delivery and/or use of long distance telephone services shall be included in the numerator of the apportionment factor if the long distance call originates or terminates within the Metro district and is billed or paid from an address located within the Metro district.

For purposes of this rule, gross incomes from custom computer programming services are not considered Electronic or Telephonic Services. Custom computer programming services would be considered personal services under Administrative Rule 7.07 – 1090 (Apportionment of Gross Income from Business Activities Other than Sales of Tangible Personal Property). It is not relevant that the completed product may be delivered electronically to the customer.

Note: This rule sunsets 12/31/2022 and does not apply to tax years beginning on or after 1/1/2023.

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Date

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