

2010

VT FORM BA-402

APPORTIONMENT & ALLOCATION SCHEDULE INSTRUCTIONS

GENERAL INSTRUCTIONS

PLEASE USE BLUE OR BLACK INK ONLY.

This form is required for all entities having activity (income or loss) both in Vermont and outside of Vermont. You do not have to complete this form if your business activity is exclusively in Vermont.

ENTER YOUR BUSINESS NAME AND FEDERAL EMPLOYER IDENTIFICATION NUMBER.

- For separate corporations and consolidated groups that are not unitary, leave “Affiliate Corporation” and “Affiliate’s FEIN” blank.
- For Unitary Combined returns, complete a VT Form BA-402 for the Principal Vermont Corporation (PVC) and for each taxable affiliate. Provide the name and FEIN for both the PVC and the affiliate in the appropriate fields. The first BA-402 should report the PVC’s name and FEIN in the “PVC” and “Affiliate fields. **For each affiliate, the “Everywhere” figures reported should be those for the entire affiliated group (including those members that do not have nexus in Vermont), and thus should be the same on each BA-402 filed for the group.** Do not complete the BA-402 or CO-421 for affiliates that do not have nexus in Vermont.
- **Review Regulation §1.5833-1 Allocation and Apportionment of Income** A copy of this regulation is available at the Department of Taxes’ website: www.state.vt.us/tax/pdf.word.excel/legal/regs/15833.pdf

If the income or loss of a taxable entity is derived from any trade, business, or activity conducted entirely within Vermont, the net income shall be apportioned to Vermont in full. Vermont uses a three-factor formula to apportion the income of entities operating in more than one state. Vermont net income is the entity’s total income multiplied by the arithmetic average of these three percentages:

- 1) The **gross sales or charges for services** performed within Vermont to such sales Everywhere (within and without Vermont), **double-weighted**; and,
- 2) The total **wages, salaries or personal service compensation** paid during the taxable year to employees or agents within Vermont to such payments Everywhere (within and without Vermont); and,
- 3) The average value of **real and tangible personal property** owned or rented within Vermont to such property Everywhere (within and without Vermont).

The **Everywhere** amounts include sales, wages, and property *outside* of Vermont as well as *within* Vermont. Entities filing apportioned consolidated Vermont returns use the combined amounts of the Vermont consolidated group, which includes only the Vermont-nexus members of the federal consolidated group. Enclose a schedule or spreadsheet showing the sales, wages, and property in Vermont and Everywhere for each Vermont company, and the total amount for all non-nexus members of the group. Complete **VT Schedule BA-410, Affiliation Schedule**, to identify all members of the group.

PART 1 DIRECTLY ALLOCATED NONBUSINESS INCOME AND FOREIGN DIVIDENDS

All items of nonbusiness income (income which is not included in the apportioned tax base) are allocated directly to the state in which the income-producing assets are located. If the income-producing asset has no situs (location), the income will be allocated to the state of commercial domicile, the principle place from which the business is directed or managed.

Line 1a: Enter the amount of Nonbusiness Income from Everywhere.

Line 1b: Enter the amount of Nonbusiness Income from Vermont.

Place an “X” in the box to the left of the amount to indicate a negative value.

Amounts from Lines 1a and 1b will be used on Form CO-411 or CO-411-U, or Form BI-472 or Form BI-473.

Lines 1c and 1d should only be used by Unitary filers.

Line 1c: Enter the amount of Foreign Dividends from Form CO-419, Line 16. Include the “Everywhere” amount on Form CO-411-U, Line 4(e).

Line 1d: Enter the Vermont Foreign Dividends Taxable Income from VT Form CO-419, Line 17. Include on the schedule CO-421 for the corresponding affiliate, Line 5.

PART 2 APPORTIONMENT FACTORS

DO NOT REPORT NEGATIVE VALUES ON FORM BA-402. This form is to apportion or allocate activity, not report income. It is not possible to have negative activity in Vermont or everywhere. If an item of income is negative, use the absolute value in order to fairly apportion or allocate activity.

Complete Sections A, B, and C. Enter Everywhere amounts in the left columns and Vermont amounts in the right columns. Compute the Vermont apportioned percentage at Lines 12, 13 and 20 by dividing the Vermont total by the Everywhere total. Carry out the percentage six decimal places. Enter the percentages on Lines 12c, 13c and 20c. The percentages are totaled and arithmetically averaged in Section D.

For Unitary filers, the “Everywhere” figures reported should be those for the entire group, and thus should be the same on each BA-402 filed for each affiliate within the group.

SECTION A: Apportioned Income, Sales and Receipts Factor

Line 2: Enter the total sales or gross receipts for the year. For filers of Federal Form 1065, enter the amount on page 1, Line 1c plus the **GROSS RECEIPTS COMPONENTS** on Lines 4 through 7. The taxpayer may need to refer to various other Federal forms or schedules to obtain the gross components of business receipts. For example, Federal Form 1065, Page 1, Line 5 provides a net amount; the taxpayer must refer to Federal Form 1040, Schedule F, Line 11 for the **GROSS** amount for the purpose of this factor.

Line 3: Enter the total of all receipts from services performed in Vermont. A service is considered performed in the state where the portion of the income producing activity performed in Vermont, measured by cost, is greater than the portion performed in any other state.

Line 4: Enter the sales of tangible personal property shipped or delivered to Vermont from *outside* Vermont, except when the purchaser is the United States Government.

Line 5: Enter the sales of tangible personal property shipped or delivered to Vermont from *within* Vermont, except when the purchaser is the United States Government. Also use this line for **sales of real property** included in Line 2 if the property is in Vermont.

Line 6: Enter the sales of tangible personal property shipped *from Vermont to the United States Government*. These are “throwback” sales. (Vermont apportionment factor of Line 2 above.)

Line 7: Enter the sales of tangible personal property shipped *from Vermont to purchasers in a state where the entity is not taxable; i.e., does not have nexus*. These are “throwback” sales. (Vermont apportionment factor of Line 2 above.)

Line 8: Enter receipts from business interest. Business interest is interest earned on business receivables. Business income is allocated to Vermont if the receivable resulted from a Vermont sale or from a receivable that is managed from a Vermont office. Interest on investments is not business interest and is not used in the apportionment formula.

Line 9: Enter receipts from royalties as reported by filers of Federal Form 1120S, page 2, Schedule K, Line 6 or Federal Form 1065, page 4, Schedule K, Line 7 or Federal Form 1120, page 1, Line 7. Royalties are allocated to Vermont if they are for the use of patents or copyrights in Vermont.

Line 10: Enter the total gross rental receipts for the year as reported by filers of Federal Form 1120S, page 2, Schedule K, Line 3a or Federal Form 1065, page 4, Schedule K, Line 3a and Federal Form 8825, Line 2 or Federal Form 1120, page 1, Line 6.

Line 11: Enter other business income (loss) as reported by filers of Federal Form 1120S, page 1, Line 5 or Federal Form 1065, page 1, Line 7 or Federal Form 1120, page 1, Line 10. Include taxable income from Vermont sources earned as a shareholder or partner and reported on Federal Schedule K-1; i.e., from income-producing assets and activity located in Vermont.

Line 12: Total sales and gross receipts. Add Lines 2-11 and enter the Everywhere and Vermont values on Lines 12a and 12b respectively. Calculate the Vermont apportionment percentage for sales and gross receipts by dividing Line 12b by Line 12a. Carry this percentage six (6) places beyond the decimal point and enter on Line 12c.

SECTION B: Salaries and Wages Factor

Line 13: Enter the salaries and wages paid or accrued during the taxable year for Everywhere and for Vermont on Lines 13a and 13b respectively. Salaries and wages are allocated to Vermont if they were paid for services performed in the state.

Payments to employees for board, rent, housing, lodging, and any other benefits paid in exchange for labor will be treated as compensation if they are considered as income under the Internal Revenue Code. The entity may allocate based on the office or business location with which the employee is associated unless this method fails to properly reflect the business conducted in Vermont. To the extent that employee services produce both business and nonbusiness income, proration is required. Calculate the Vermont apportionment percentage for salaries and wages by dividing Line 13b by Line 13a. Carry this percentage six (6) places beyond the decimal point and enter on Line 13c.

SECTION C: Property Factor

Lines 14-18: Use the **average** of the beginning and ending values based on the **original** cost.

DO NOT INCLUDE INTANGIBLE PROPERTY IN THIS FACTOR. **Tangible personal property** is within Vermont if it is physically situated or located here. Property of the taxpayer held in Vermont by an agent, consignee, or factor is situated or located within Vermont. **Property in transit** between locations of the taxpayer to which it belongs is considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller which is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices is included in the numerator according to the state of destination. The value of **mobile or movable property** such as construction equipment, trucks, or leased electronic equipment which are located within and without this state during the tax period is determined for purposes of the numerator of the factor on the basis of total time within the state during the tax period. **Construction in progress** is not included in this factor until the asset constructed is placed in service.

Line 19: The value of the **rented or leased real or tangible personal property** both within and without Vermont is determined by multiplying the gross rent payable during the tax year by a factor of eight (8). The gross rent to be used includes all money or other considerations payable directly or indirectly for the use and possession of the property and includes payments measured as a percentage of profits, payments in addition to or in lieu of rent for interest, taxes, insurance, repairs or other amounts paid on behalf of the lessor which may be required by the lease.

Line 20: Total property values. Add Lines 14 through 19 and enter the Everywhere values (left column) and the Vermont values (right column) on Lines 20a and 20b respectively. Calculate the Vermont apportionment percentage for property by dividing Line 20b by 20a. Carry this percentage six (6) places beyond the decimal point and enter the resultant percentage on Line 20c.

SECTION D: Vermont Apportionment Percentage

The Vermont apportionment percentage is the numerical average of the sales factor (double-weighted), the salaries and wages factor, and the property factor. If the sales factor does not exist, i.e. Line 12a is zero, the remaining two factors are totaled and divided by two. If either the wages or property factors are zero, i.e. Line 13a or Line 20a is zero, divide the sum of the weighted sales factor and other factor by three. If two factors are zero, the remaining factor is the Vermont apportionment percentage. If Line 12b, 13b, or 20b is zero, and there is a nonzero amount in the corresponding Everywhere line, the factor exists. The factor 0.000000% should be included with the other factors to determine the Vermont apportionment percentage.

Line 21: Total of the three percentages. Add Lines 12c twice, 13c, and 20c. Enter the result here.

Line 22: Vermont Apportionment Percentage Divide Line 21 by 4 (or as indicated below). Enter the result here and, as applicable, on: VT Form CO-411, Line 6; VT Form BI-472, Line 7; or VT Form BI-473, Line 12.

- Sales/Receipts and Salaries and Wages - divide by 3
- Sales/Receipts only - divide by 2
- Sales/Receipts and Property - divide by 3
- Salaries and Wages only - divide by 1
- Salaries and Wages and Property - divide by 2
- Property only - divide by 1

(Enter here and on Form CO-411, Line 6; or Form BI-472, Line 7; or Form BI-473, Line 12.)

Contacting the Department

Mailing address:

Vermont Department of Taxes
133 State Street
Montpelier, VT 05633-1401

Taxpayer Services: **(802) 828-5723**

Email Address: **tax-corpincome@state.vt.us**

Web site Address: **<http://tax.vermont.gov>**

Fax: **(802) 828-5787**

Forms: **(802) 828-2515**