

## States with Commercial Domicile Apportionment Sourcing – May 2019

**Michigan** - In 2007, Michigan enacted market-based sourcing for apportionment purposes. Shortly thereafter, the State adopted a statute under which broadcasters apportion both advertising revenues and the license fees earned from cable and satellite system operators and Internet distributors based on the commercial domicile of the advertiser or licensee. Mich. Comp. Laws Ann. Section 208.1305(20).

**Illinois** - Similar to Michigan, subsequent to the enactment of market-based sourcing for apportionment purposes in 2009, additional legislation was enacted which clarified how the market-based sourcing statutes applied to broadcasters. This statute provides that advertising income and license fees earned from cable and satellite system operators and Internet distributors are sourced to the principal place of business of the Networks' direct customers (i.e., commercial domicile). ILCS 5/304(a)(3)(B-1)(i), (B-2), (B-7) and (C-5).

**Iowa** - In 2015, Iowa enacted a statute to repeal a 25-year old viewing audience-based apportionment formula. The Governor and the legislature recognized that the viewing audience method was outdated given the significant changes in the rapidly evolving ways in which television content is seen. The new law modernizes the method for sourcing receipts within and without Iowa based on the commercial domicile of customers (i.e., advertisers, cable and satellite operators and Internet distributors). **Caution: "broadcaster" definition includes a TV network, cable program network and a TV distribution company; however, it does not include a cable system operator, a satellite system operator or a TV or radio station licensed by the FCC.**

**Florida** - Florida has issued two rulings which conclude that the taxpayer's cable program networks should source both their advertising revenues and license fees from their distributors to Florida when the taxpayer's customers (advertisers, cable and satellite operators, Internet distributors) are located in Florida. The rulings indicate that a taxpayer's customers are considered to be located in Florida when the principal place from which their trade or business is directed or managed is within Florida (i.e., their commercial domicile). Florida Technical Assistance Advisement, No. 13C1-004 (May 21, 2013); Florida Technical Assistance Advisement, No. 11C1-008 (Sep. 15, 2011).

**Oregon** - Oregon in 2014 enacted a statute to repeal a 25-year old viewing audience-based apportionment formula applicable to broadcasters. The Governor and the Legislature recognized the viewing audience method was outdated given the significant changes in the rapidly evolving ways in which television content is seen. The new law (effective through 2018) is intended to modernize the method for sourcing receipts within and without Oregon based on the commercial domicile of customers (i.e., advertisers, cable and satellite operators and Internet distributors).

Or. Rev. Stat. Sections 314.680, 314.682 and 314.684. Legislation is pending (unanimously passed the Senate) in 2019 to extend the current sunset date. **Caution: pending legislation contains the same “broadcaster” definition as passed in Iowa’s legislation above.**

**Texas** - House Bill 2896 was enacted in 2015, which provided certainty regarding apportionment for licensing fees. The new provision provides the apportionment of receipts from the distribution of television programming by national and local broadcasters similar to the method for apportioning receipts from other intangible property under Texas law. It adds a new section to the Texas Tax Code Section 171.106 to clarify that receipts from the distribution of programming by Texas television stations and national cable and television networks should be apportioned based on the “location of the payor rule,” i.e., the state of incorporation/ formation of the cable system operators and direct broadcast satellite operators.

**Rhode Island** - Legislation enacted in June 2014 established mandatory unitary combined reporting, single sales factor apportionment, and market-based sourcing. The statute directed the Rhode Island Department of Revenue to promulgate regulations. The Department’s regulations, adopted in 2015, endorse the concept that a broadcasters’ “market” for corporate tax apportionment should be based on the location of their direct customers, i.e., their commercial domicile. Once the state transitioned to market sourcing they rejected the previously existing audience apportionment methodology. [Rhode Island - Market Sourcing Apportionment - Broadcasters](#)

**Tennessee** - Tennessee enacted general market sourcing legislation in 2015 (H.B. 644 for tax years beginning on or after 7/1/2016), and posted rules for public comment in February, 2016. In September, 2016 the state’s rules became effective and included MPAA’s commercial domicile apportionment for broadcasters. Tenn. Comp. Rules & Regs. § 1320-06-01-.42

**Kentucky** – Kentucky enacted market sourcing legislation in 2018 and regulations have been approved, which would adopt a commercial domicile apportionment method for broadcasters. Took effect May 3, 2019 <https://apps.legislature.ky.gov/law/kar/103/016/270reg.pdf>

**Wisconsin** – Enacted Commercial Domicile apportionment for broadcasters in 2017 effective for taxable years beginning Jan 1, 2019

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