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November 13, 2017

Sharla Dillon
Dockets Manager
Tennessee Public Utility Commission
502 Deaderick Street, 4th Floor
Nashville, TN 37242

VIA E-MAIL AND HAND DELIVERY

RE: Atmos Energy Corporation – 2017 ARM Reconciliation Filing

Dear Ms. Dillon:

Enclosed are Atmos Energy Corporation's additional Responses to the Fourth Discovery Requests of the Consumer Protection and Advocate Division

The response to 4-21 includes Confidential material, which is being submitted pursuant to the Protective Order in this matter, and which should not be posted to the TPUC's docket website. This Confidential material is being submitted by hand delivery only.

A working Excel copy of a portion of the response to 4-21 has been included with the email service copy for use by TRA staff.

Please feel free to contact me if you have any questions.

Best regards.

Sincerely,

A. Scott Ross

ASR:prd
Enclosures
Vance Broemel, Esq. vance.broemel@ag.tn.gov
Wayne Irvin, Esq. wayne.irvin@ag.tn.gov

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-16
Page 1 of 1

REQUEST:

Refer to the Company's Response to CPAD DR 1-03(f). Admit or deny that the method proposed by Atmos for the calculation of income taxes in the current TPUC Docket No. 17-00091 does not substitute the Company's actual booked income tax expense in the place of data that was previously forecast in TPUC Docket No. 16-00013 (for the period June 2016 through May 2017). If you deny, explain fully and with specificity.

RESPONSE:

The Company denies that the Company's proposed methodology for the calculation of income taxes in TPUC Docket No. 17-00091 does not substitute the Company's calculated actual income tax expense in the place of data that was previously forecast in TPUC Docket No. 16-00013. The Company admits that booked income tax expense does not substitute previously forecasted data. As Ms. Story has described in her testimony, "actual" is not synonymous with "booked" income tax expense in this filing. Please see Ms. Story's testimony on page 4, lines 12-23, page 5 lines 1-2, page 5 lines 9-12, page 5 lines 22-23, page 6 line 1, and page 7 lines 1-15 for further explanation of why this is the case.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-18
Page 1 of 1

REQUEST:

Explain fully and with specificity the meaning of the acronym GOF as used in the Company's Response to CPAD 1-02, Attachment 1.

RESPONSE:

The acronym GOF stands for general office and refers to the general office (GOF) for the Kentucky/Mid-States division, division 091 Brentwood Division.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-21
Page 1 of 1

REQUEST:

Explain in detail and with specificity and provide a copy of all underlying analysis used to record the true-up entry in September, 2017 referenced in the Company's Response to CPAD DR 1-03(q).

RESPONSE:

The true ups are a component of the overall workpapers and journal entries to record the following year provision for income tax expense. Please see the Federal book tax walk provided as Attachment 1, together with the Federal income tax return provided as Confidential Attachment 2, that supports the federal true up. Please see Confidential Attachment 3 along with Attachment 1 and Confidential Attachment 2 to support the state true ups.

ATTACHMENTS:

ATTACHMENT 1 - Atmos Energy Corporation, CPAD_4-21_Att1 - Book Tax Walk.xlsx, 4 Pages.

ATTACHMENT 2 - Atmos Energy Corporation, CPAD_4-21_Att2 - Federal Return FY16 (CONFIDENTIAL).pdf, 144 Pages.

ATTACHMENT 3 - Atmos Energy Corporation, CPAD_4-21_Att3 - Tennessee Tax Return FY16 (CONFIDENTIAL).pdf, 13 Pages.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-22
Page 1 of 1

REQUEST:

Refer to the Company's Response to CPAD DR 1-04(a). Explain fully and with specificity the theoretical and practical rationales for allocating the Tennessee tax liability to other states and conversely allocating the tax liability of other states to Tennessee.

RESPONSE:

The Company's rationale is fully described in Ms. Story's testimony. Please see Ms. Story's testimony page 7, lines 20-23, page 8 lines 1-6, page 8 lines 22-23, page 9 lines 1-8, page 9 lines 13-23, and page 10 lines 1-4 for detailed explanations regarding the Company's allocation of state tax expense.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-23
Page 1 of 1

REQUEST:

The Company's Response to CPAD 2-11(d) indicates that a specific NOL calculation for Tennessee would be inconsistent with the Internal Revenue Code. Provide a further explanation identifying how a specific identification of Tennessee tax losses based upon Tennessee specific information is inconsistent with Internal Revenue Code requirements. Further, identify and provide a copy of the specific Internal Revenue Code sections (and any applicable regulations and other authoritative guidance) that prevents the specific identification of tax losses by state.

RESPONSE:

The Internal Revenue Code refers to Title 26 of the U.S. Code. This is the domestic portion of federal statutory tax law. Instead, Treasury Reg §1.1502-11 outlines the requirements for computing taxable income for a consolidated group, such as Atmos Energy Corporation. This regulation requires that the consolidated taxable income for a consolidated return year is determined by taking into account the separate taxable income of each member of the group. Certain specific items such as charitable contributions, capital gains and losses, and the deduction of net operating losses from carryback or carryforward periods are then determined on a consolidated basis.

Treasury Reg §1.1502-1 defines a member of a consolidated group as a corporation that is included in the group. Treasury Reg §1.1502-12 requires that the separate taxable income for each member must be calculated as if the member was a separate corporation, and not part of a consolidated group. For each member of the affiliated group, a pro forma standalone tax return is prepared. This tax return is prepared as if each of these members were individual and separate taxpayers filing its own tax return. All items of income and deductions are calculated on a standalone basis without regard to other members of the group. All utility operations are included within one legal entity, Atmos Energy Corporation. A standalone calculation of taxable income is prepared for Atmos Energy Corporation, pursuant to the Treasury Regulations discussed above.

Federal tax law does not provide any guidance as to how to compute federal taxes by state jurisdiction, as was requested in CPAD DR No. 2-11(d). The rules outlined above are very clear as to how taxable income is to be calculated. The Company performs taxable income calculations in compliance with these rules.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-25
Page 1 of 1

REQUEST:

On page 10 of Ms. Story's testimony she states that "[e]ach State has a prescribed methodology for apportioning the Company's earnings to that state." Provide a copy of the methodology prescribed by the State of Tennessee, or a link to where such information is publicly available.

RESPONSE:

Please see Attachment 1 for the Tennessee law regarding apportionment and allocation of income.

ATTACHMENT:

ATTACHMENT 1 - Atmos Energy Corporation, CPAD_4-25_Att1 - Tennessee Code T.C.A 67-4-2012.pdf, 6 Pages.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-39
Page 1 of 2

REQUEST:

Refer to tab 93 of the file titled "ADIT TN Projection June 2017 to Rates, which includes the summary reconciliation for the \$85.4 Million ADIT liability (balance referenced is June, 2017). With respect to lines 34 and 35, "Fixed Asset Cost Adjustment" and "Depreciation Adjustment", respond to the following questions:

- (a) Define each of the terms
- (b) Confirm that the assets giving rise to these two adjustments are physically located in Tennessee.
- (c) If (b) is not confirmed, provide the underlying calculations supporting the balances and identify the nature and location (including state) of the assets giving rise to the two referenced balances.

RESPONSE:

- a) Fixed Asset Cost Adjustment - The capitalization of costs for assets is treated differently for financial and income tax accounting purposes. Differences may arise from the acquisition of assets either through a stock or asset purchase and reflect the difference in treatment, cost allocation, or basis presentation of the acquired assets. Other cost basis differences are the result of differences in methods between book accounting and tax accounting for items such as capitalized interest, contributions in aid of construction, capitalization of overhead and capitalization of repair and maintenance expenses. In addition, tax legislation such as the enactment or extension of bonus depreciation results in cost basis differences. Cost basis differences are initially reflected within CWIP (Construction Work in Process). As projects within CWIP are completed and assets are placed in service, the basis difference moves to Fixed Asset - Cost Adjustment.

Depreciation Adjustment - For federal income tax purposes, Atmos Energy depreciates assets using the modified accelerated cost recovery method promulgated by §168 of the Internal Revenue Code ("IRC"). For financial statement purposes, Atmos Energy follows a method of depreciation that is acceptable under generally accepted accounting principles ("GAAP"). Use of the modified accelerated cost recovery method for tax purposes results in assets being depreciated faster

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-39
Page 2 of 2

for income tax accounting than for financial accounting. This difference results in a deferred tax liability early in the life of the assets. This deferred liability reverses as the assets are depreciated.

- b) Confirmed. The assets giving rise to the fixed asset cost adjustment and depreciation adjustment as shown on tab 93 are physically located in Tennessee.
- c) Not applicable.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-40
Page 1 of 1

REQUEST:

Division 093 has a State Net Operating Loss component (-\$3.0 Million), as well as a Federal Benefit on State NOL offset (\$1.06 Million) within the division ADIT balance of \$85.4 Million as of May 31, 2017. With respect to these balances provide the following information:

- (a) Confirm that this balance relates to the determination of tax losses as set forth on the Tennessee Department of Revenue tax return.
- (b) If these balances do not directly correlate to the accumulation of results from Tennessee tax returns, provide:
 - (i) A thorough explanation indicating how such amounts were calculated and their source.
 - (ii) Supporting documentation for the portion of the balances related to activity in the fiscal years covering 2014-2016.

RESPONSE:

- a) Confirmed. The balance in the State Net Operating Loss as well as the Federal Benefit on State NOL relates to tax losses as set forth on the Tennessee Department of Revenue tax return on tax returns that have been filed with the Tennessee Department of Revenue as of May 31, 2017. As of May 31, 2017, the Company has filed Tennessee tax returns applicable to the periods through September 30, 2015. In addition, the balances included an estimate of the September 30, 2016 Tennessee net operating loss the Company calculated as part of the September 30, 2016 annual provision.
- b) Not applicable.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-53
Page 1 of 1

REQUEST:

CPAD DR 1-08 references a utility tax loss of \$406 Million in FY 2016. Within this balance, identify the tax depreciation incorporated within this calculation.

RESPONSE:

The tax depreciation, including bonus depreciation, included in the utility tax loss recorded on the books at 9/30/2016 is \$644,882,455.

Docket No. 17-00091
Atmos Energy Corporation, Tennessee Division
CPAD DR Set No. 4
Question No. 4-54
Page 1 of 1

REQUEST:

Provide the amount of tax depreciation embedded within the file "ADIT TN Projection June 2017" for division 93 applicable to FY 2016.

RESPONSE:

The tax depreciation, including bonus depreciation, as of the 9/30/2016 provision applicable to division 93 is \$20,059,585.

Atmos Energy Corporation
SubConsolidated Dataset Provision Breakout
FY16 Return, 02 Consolidated (Filing Units)

	FY16 Return Total	FY16 Q4 Provision Total	True Up
Total Pre-Tax Book Income:			
UPTBI: Pre-Tax Book Income	550,477,172	550,477,172	0
Total Total Pre-Tax Book Income	550,477,172	550,477,172	0
Total Deductible State Tax	(3,999,747)	(3,610,078)	(389,669)
Permanent Differences:			
CSD01: Dividends Paid to RSGP	(1,082,619)	(1,082,619)	0
CSD02: Dividends Received Deduction	(2,334,367)	(2,334,367)	0
CSD03: ESOP Dividends	(7,341,603)	(7,341,603)	0
NBP07: Restricted Stock Grant Plan	(12,569,007)	(12,569,007)	0
NBP12: Excess 162(m) Exec Comp	2,129,567	2,114,777	14,790
NBP20: Intercompany Dividends	0	0	0
ONT05: Club Dues	18,067	18,112	(45)
ONT07: Capitalized Meals and Entertainment	122,243	122,243	0
ONT08: Cash Surrender Value Adjustment	(848,179)	(848,179)	0
ONT16: Lobbying Expense	1,126,897	1,170,389	(43,492)
ONT18: Meals and Entertainment	4,128,327	3,562,686	565,641
ONT29: Penalties	2,918,667	2,918,667	0
ONT34: SERP Premiums	149,701	149,701	0
ONT36: Spousal Travel	281,833	281,833	0
ONT57: Tax Free Interest - Perm	(176,703)	(176,703)	0
ONT89: Gifts	100,000	100,000	0
ONT99: State Income Tax Deduction	505,744	505,744	0
Total Permanent Differences	(12,871,432)	(13,408,326)	536,894
Financial Taxable Income	533,605,995	533,458,761	147,225
Temporary Differences:			
ACC02: Ad Valorem Taxes	(4,267,548)	3,199,090	(7,466,638)
ACC03: Directors Deferred Bonus	72,498	72,498	0
ACC04: MIP / VPP Accrual	30,243	1,359,959	(1,329,716)
ACC08: Self Insurance - Adjustment	(50,000)	(50,000)	0
ACC11: Vacation Accrual	13,031	13,031	0
ACC12: Worker's Comp Insurance Reserve	435,316	435,316	0
CAP01: Customer Advances	533,965	533,965	0
DTE09: Deferred Expense Projects	299,370	299,370	0
DTE12: Amortization - LGS Acq. 1860.14155	482,823	482,823	0
DVA05: RAR 91/93 Bond Cost Amortized	3,935	3,935	0
DVA09: Lease Income - Myranti	320,258	320,258	0
DVA26: RAR 86/90 Lease Expense Amortization	(14,726)	(14,726)	0
DVA37: Amortization - Comfort Goodwill	(79,868)	(79,868)	0
FXA02: Depreciation Adjustment	(301,210,034)	(339,835,389)	38,625,309
FXA03: Book Gain/Loss on Sale of FA	(62,980)	188,030	(250,990)
FXA04: Tax Gain/Loss on Sale of FA	(11,304,574)	0	(11,304,563)
FXA06: Software Capitalized per Books	(14,043,573)	(9,334,485)	(4,709,088)
FXA07: Aid in Construction Adjustment	59,050,891	23,535,944	35,514,947
FXA09: Capitalized Interest Adjustment	4,854,573	4,758,476	96,097
FXA10: Capitalized Overhead Adjustment	(50,712,448)	(53,017,605)	2,305,157
FXA38: Capitalized Book Depreciation	(5,571,156)	(5,529,961)	(41,195)
FXA44: Repairs Deduction	(469,814,382)	(410,691,927)	(59,122,452)
FXA46: Section 481(a) TPR	(7,947,060)	0	(7,947,060)
GCA01: Deferred Gas Costs	(55,398,355)	(55,398,355)	0
GCA03: Over Recoveries of PGA	24,831,537	24,831,537	0
NBP03: SEBP Adjustment	5,538,018	5,538,018	0
NBP05: Restricted Stock Grant Plan	(6,262,476)	(6,262,476)	0
NBP13: Restricted Stock - MIP	4,059,627	4,059,627	0
NBP16: Director's Stock Awards	2,929,886	2,929,886	0
NTE03: Capitalized Selling Expense	(11,088)	(36,550)	25,462
NTE05: Industrial Contracts	(336,595)	(336,594)	(1)
NTE06: Partnership - NSL	212,493	119,395	93,098
NTE08: Linder - Partnership Investment	2,622	2,622	0
NTE11: UNICAP Section 263A Costs	3,466,777	7,005,888	(3,539,111)
ONT02: Allowance for Doubtful Accounts	(1,916,135)	(1,916,135)	0
ONT03: Clearing Account - Adjustment	(784,646)	(784,646)	0
ONT04: Charitable Contribution Carryover	3,500,695	3,500,228	467
ONT13: LGS - Goodwill Amortization	(4,860,111)	(4,860,114)	3
ONT19: Book Inc Recognized for MTM Acctg	10,313,578	9,932,857	380,721
ONT27: Duke - Purchased Contracts	(54,199)	(54,199)	0
ONT31: Prepayments	689,652	689,652	0
ONT32: Rate Case Accrual	(10,610,702)	(10,610,702)	0
ONT33: Research and Development Expenses	56,632	56,632	0

Atmos Energy Corporation
SubConsolidated Dataset Provision Breakout
FY16 Return, 02 Consolidated (Filing Units)

	FY16 Return Total	FY16 Q4 Provision Total	True Up
ONT39: IGS - Purchased Contracts	(4,969)	(4,969)	0
ONT49: TXU - Goodwill Amortization	(34,082,581)	(34,082,581)	0
ONT51: Prepayments - MVG	12	12	0
ONT52: WACOG to FIFO Adjustment	(11,595,556)	(11,912,957)	317,401
ONT61: Federal and State Tax Interest	462,159	462,159	0
ONT66: Impairment - Atmos Gathering LLC	(3,611,000)	0	(3,611,000)
ONT68: Reg Asset Benefit Accrual	4,051,378	4,051,378	0
ONT69: TX Rule 8.209 Reg Asset Deferral	(38,382,440)	(38,382,440)	0
ONT70: LA SIIP Reg Asset	(8,811,194)	(8,811,194)	0
PEN01: Pension Expense	22,579,184	(7,420,816)	30,000,000
PRB01: FAS 106 Adjustment	(1,394,761)	(1,394,761)	0
RGA01: Regulatory Asset - LGS Amortization	(47,911)	(47,911)	0
RGL02: Regulatory Liability - Atmos	1,342,075	1,342,075	0
RGL03: Regulatory Liability - GGC 109	(174)	(174)	0
RGL04: Regulatory Liability - UCGC 109	137,388	137,388	0
RGL05: Regulatory Liability - UCGC Rate	(247,374)	(247,374)	0
Total Temporary Differences	(893,220,000)	(901,256,860)	8,036,848
Federal Taxable Income (Pre-NOL)	(353,614,006)	(367,798,092)	8,184,073

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Atmos Energy Corporation
SubConsolidated Dataset Provision Breakout Report (Reporting)
FY16 Return AMENDED, 02 AUT

	FY16 Return Total	FY16 Q4 Provision Total	True Up
Total Pre-Tax Book Income:			
UPTBI: Pre-Tax Book Income	521,812,352	521,812,352	0
TotalTotal Pre-Tax Book Income	521,812,352	521,812,352	0
Deductible State Tax:			
CO: Colorado	(44,206)	(44,206)	0
IL: Illinois	(22,802)	(22,802)	0
KS: Kansas	(101,963)	(101,963)	0
KY: Kentucky	(103,870)	(43,259)	(60,611)
LA: Louisiana	(1)	(1)	0
MS: Mississippi	(1)	(1)	0
TN: Tennessee	2	2	0
TX: Texas	2,445,599	2,707,772	(262,173)
VA: Virginia	(3)	(3)	0
WV: West Virginia	(94,644)	(94,644)	0
TotalDeductible State Tax	(2,078,111)	(2,400,895)	322,784
Permanent Differences:			
CSD01: Dividends Paid to RSGP	(1,082,619)	(1,082,619)	0
CSD02: Dividends Received Deduction	(2,334,367)	(2,334,367)	0
CSD03: ESOP Dividends	(7,341,603)	(7,341,603)	0
NBP07: Restricted Stock Grant Plan	(12,569,007)	(12,569,007)	0
NBP12: Excess 162(m) Exec Comp	2,129,567	2,114,777	14,790
ONT05: Club Dues	18,012	18,057	(45)
ONT07: Capitalized Meals and Entertainment	121,850	121,850	0
ONT08: Cash Surrender Value Adjustment	(848,179)	(848,179)	0
ONT16: Lobbying Expense	1,126,897	1,170,389	(43,492)
ONT18: Meals and Entertainment	3,996,443	3,430,802	565,641
ONT29: Penalties	1,803,299	1,803,299	0
ONT34: SERP Premiums	149,701	149,701	0
ONT36: Spousal Travel	262,878	262,878	0
ONT57: Tax Free Interest - Perm	(176,703)	(176,703)	0
ONT89: Gifts	100,000	100,000	0
ONT99: State Income Tax Deduction	(10,405)	(10,405)	0
TotalPermanent Differences	(14,654,236)	(15,191,130)	536,894
Financial Taxable Income	505,080,006	504,220,324	859,682
Temporary Differences:			
ACC02: Ad Valorem Taxes	(4,267,548)	3,199,090	(7,466,638)
ACC03: Directors Deferred Bonus	72,498	72,498	0
ACC04: MIP / VPP Accrual	119,229	1,166,548	(1,047,319)
ACC08: Self Insurance - Adjustment	1,450,000	1,450,000	0
ACC12: Workers Comp Insurance Reserve	435,230	435,230	0
CAP01: Customer Advances	533,965	533,965	0
DTE09: Deferred Expense Projects	299,370	299,370	0
DTE12: Amortization - LGS Acq. 1860,14155	482,823	482,823	0
DVA05: RAR 91/93 Bond Cost Amortized	3,935	3,935	0
DVA26: RAR 86/90 Lease Expense Amortization	(14,726)	(14,726)	0
DVA37: Amortization - Comfort Goodwill	(79,868)	(79,868)	0
FXA02: Depreciation Adjustment	(304,129,183)	(342,697,174)	38,567,991
FXA03: Book Gain/Loss on Sale of FA	152,909	152,909	0
FXA04: Tax Gain/Loss on Sale of FA	(2,775,929)	0	(2,775,929)
FXA06: Software Capitalized per Books	(13,918,370)	(9,321,918)	(4,596,452)
FXA07: Aid in Construction Adjustment	58,666,128	23,399,580	35,266,548
FXA09: Capitalized Interest Adjustment	4,854,573	4,758,476	96,097
FXA10: Capitalized Overhead Adjustment	(50,712,448)	(53,017,605)	2,305,157
FXA38: Capitalized Book Depreciation	(5,571,156)	(5,529,961)	(41,195)
FXA44: Repairs Deduction	(469,814,382)	(410,691,927)	(59,122,455)
FXA46: Section 481(a) TPR	(7,947,058)	0	(7,947,058)
GCA01: Deferred Gas Costs	(55,398,355)	(55,398,355)	0
GCA03: Over Recoveries of PGA	24,831,537	24,831,537	0
NBP03: SEBP Adjustment	5,077,571	5,077,571	0
NBP05: Restricted Stock Grant Plan	(7,693,490)	(7,693,490)	0
NBP13: Restricted Stock - MIP	4,059,627	4,059,627	0
NBP16: Directors Stock Awards	2,929,886	2,929,886	0
NTE03: Capitalized Selling Expense	(11,088)	(36,550)	25,462
NTE11: UNICAP Section 263A Costs	3,550,341	7,089,452	(3,539,111)
ONT02: Allowance for Doubtful Accounts	(1,877,491)	(1,877,491)	0
ONT03: Clearing Account - Adjustment	(784,646)	(784,646)	0
ONT04: Charitable Contribution Carryover	3,500,695	3,475,629	25,066

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Atmos Energy Corporation
SubConsolidated Dataset Provision Breakout Report (Reporting)
FY16 Return AMENDED, 02 AUT

	FY16 Return Total	FY16 Q4 Provision Total	True Up
ONT13: LGS - Goodwill Amortization	(3,842,433)	(3,842,434)	1
ONT31: Prepayments	671,028	671,028	0
ONT32: Rate Case Accrual	(10,610,702)	(10,610,702)	0
ONT33: Research and Development Expenses	56,632	56,632	0
ONT49: TXU - Goodwill Amortization	(34,082,581)	(34,082,581)	0
ONT51: Prepayments - MVG	12	12	0
ONT52: WACOG to FIFO Adjustment	(8,915,769)	(8,915,769)	0
ONT61: Federal and State Tax Interest	462,159	462,159	0
ONT68: Reg Asset Benefit Accrual	4,051,378	4,051,378	0
ONT69: TX Rule 8.209 Reg Asset Deferral	(38,382,440)	(38,382,440)	0
ONT70: LA SIIP Reg Asset	(8,811,194)	(8,811,194)	0
PEN01: Pension Expense	22,579,184	(7,420,816)	30,000,000
PRB01: FAS 106 Adjustment	(1,394,761)	(1,394,761)	0
RGA01: Regulatory Asset - LGS Amortization	(47,911)	(47,911)	0
RGL02: Regulatory Liability - Atmos	1,342,075	1,342,075	0
RGL03: Regulatory Liability - GGC 109	(174)	(174)	0
RGL04: Regulatory Liability - UCGC 109	137,388	137,388	0
RGL05: Regulatory Liability - UCGC Rate	(247,374)	(247,374)	0
Total Temporary Differences	(891,010,904)	(910,761,069)	19,750,165
Federal Taxable Income (Pre-NOL)	(385,930,901)	(406,540,738)	20,609,837
NOL Reclass:			
NOL_FED_NONREG: Federal Net Operating Loss - Non-Regulated Entities	(26,316,893)	(38,742,646)	12,425,753
NOL_FED_REG: Federal Net Operating Loss - Regulated Entities	385,930,900	406,540,739	(20,609,839)
Total NOL Reclass	359,614,007	367,798,093	(8,184,086)
Federal Taxable Income (Post-NOL)	(26,316,894)	(38,742,645)	12,425,751
Unit Tax Rate			
Federal Tax-Current	(9,210,914)	(13,559,923)	4,349,009
After Tax Temp Differences:			
Total After Tax Temp Differences	0	0	0
Cash Tax Adjustments	0	0	0
Return Basis Provision	(9,210,914)	(13,559,923)	4,349,009
Non-Cash Tax Adjustments:			
NC_FIN48_FBOS: FIN 48 Expense (Fed Benefit)	0	(539,122)	539,122
NC_ITC_FED: Investment Tax Credits (Federal)	0	(5,077)	5,077
Total Non-Cash Tax Adjustments	0	(544,199)	544,199
Total Current Federal Provision	(9,210,914)	(14,104,122)	4,893,208
Deferred Tax Provision:			
BDTPBS: Begin Deferred Tax Per B/S	0	(1,390,476,200)	1,390,476,200
BSO: + Bal Sheet Only Adjustment	0	66,861,604	(66,861,604)
EDTPBS: - Ending Deferred Tax Per B/S	178,816,274	1,508,696,986	(1,329,880,712)
Total Deferred Tax Provision	178,816,274	185,082,390	(6,266,116)
Equity Adjustment	0	0	0
Total Federal Tax Provision	169,605,361	170,978,266	(1,372,905)
Total State Tax Provision:			
SCTP: State Current Tax Provision	2,078,111	3,941,240	(1,863,129)
SDTP: State Deferred Tax Provision	20,493,250	12,284,944	8,208,306
Total State Tax Provision	22,571,361	16,226,184	6,345,177
Total Tax Provision	192,176,724	187,204,453	4,972,271
Effective Tax Rate	36.83%	35.88%	

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Tennessee Code

Title 67. Taxes And Licenses

Chapter 4. Privilege And Excise Taxes (§§ 67-4-101 to 67-4-3206)

Part 20. Excise Tax Law Of 1999 (§§ 67-4-2001 to 67-4-2023)

Section 67-4-2012. Apportionment formula

T.C.A. § 67-4-2012(a)

T.C.A. § 67-4-2012(a)(1) Except as otherwise provided in this part, for tax years beginning prior to July 1, 2016, all net earnings shall be apportioned to this state by multiplying the earnings by a fraction, the numerator of which shall be the property factor plus the payroll factor plus twice the receipts factor, and the denominator of the fraction shall be four (4).

T.C.A. § 67-4-2012(a)(2) Except as otherwise provided in this part, for tax years beginning on or after July 1, 2016, all net earnings shall be apportioned to this state by multiplying the earnings by a fraction, the numerator of which shall be the property factor plus the payroll factor plus three (3) times the receipts factor, and the denominator of the fraction shall be five (5).

T.C.A. § 67-4-2012(b) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period. For this purpose, "property" includes a taxpayer's ownership share of the real or tangible property owned or rented by any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its property factor only the real and tangible property owned or used by the limited liability company. "Property" also includes a taxpayer's ownership share of the real or tangible property owned or rented by any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and, therefore, is not subject to Tennessee excise tax. The cost value or rental value of such property shall be determined from the books and records of the entity in which the taxpayer has an interest and such property shall be valued in accordance with subsection (c).

T.C.A. § 67-4-2012(c)

T.C.A. § 67-4-2012(c)(1) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals. A lessee's payments to a lessor, or on such lessor's behalf, as part of rent, or in lieu of rent, shall be included as rent in the property factor of the apportionment formula provided by this section. Except with respect to tangible personal property, for purposes of this subsection (c), payments, such as interest, taxes, insurance, repairs or other items, shall be treated as rent paid by the lessee, if they would have been paid by the lessor if the lease contract or other agreement had not specifically provided that they be paid by the lessee.

T.C.A. § 67-4-2012(c)(2) For purposes of this section, the value of owned or leased mobile or movable property located both inside and outside of the state of Tennessee during a tax period shall be determined on the basis of the total percentage of time such property is inside the state during the tax period; provided, that the value of an automobile or truck assigned to a traveling employee shall be considered in Tennessee, if the employee's compensation is assigned to Tennessee for purposes of the taxpayer's apportionment formula payroll factor, or if such vehicle is ~~ice~~ used in Tennessee.

T.C.A. § 67-4-2012(d) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period; but the commissioner may require the averaging of monthly values during the tax period, if reasonably required to reflect

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properly the average value of the taxpayer's property.

T.C.A. § 67-4-2012(e) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period. For this purpose, "compensation" includes a taxpayer's ownership share of the compensation of any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its payroll factor only the compensation attributed to the limited liability company. "Compensation" also includes a taxpayer's share of any specific compensation of any limited partnership, subchapter S corporation, limited liability company or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and which is not doing business in Tennessee and thus is not subject to Tennessee excise tax.

T.C.A. § 67-4-2012(f) Compensation is paid in this state, if:

T.C.A. § 67-4-2012(f)(1) The individual's service is performed entirely inside the state;

T.C.A. § 67-4-2012(f)(2) The individual's service is performed both inside and outside the state, but the service performed outside the state is incidental to the individual's service inside the state; or

T.C.A. § 67-4-2012(f)(3) Some of the service is performed in the state; and

T.C.A. § 67-4-2012(f)(3)(A) The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

T.C.A. § 67-4-2012(f)(3)(B) The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

T.C.A. § 67-4-2012(g) The receipts factor is a fraction, the numerator of which is the total receipts of the taxpayer in this state during the tax period, and the denominator of which is the total receipts of the taxpayer everywhere during the tax period. For this purpose, "gross receipts" includes a taxpayer's ownership share of the gross receipts of any general partnership, or entity treated as a general partnership for federal income tax purposes, in which such taxpayer has an ownership interest. A return being filed by a limited liability company that has a general partnership as its single member shall include in its receipts factor only the gross receipts attributed to the limited liability company. "Gross receipts" also includes a taxpayer's ownership share of gross receipts of any limited partnership, subchapter S corporation, limited liability company, or other entity treated as a partnership for federal income tax purposes, in which the taxpayer has an ownership interest, directly or indirectly through one (1) or more such entities, and that is not doing business in Tennessee and thus is not subject to Tennessee excise tax.

T.C.A. § 67-4-2012(h) Sales of tangible personal property are in this state, if:

T.C.A. § 67-4-2012(h)(1) The property is delivered or shipped to a purchaser, other than the United States government, inside this state regardless of the F.O.B. point or other conditions of the sale; or

T.C.A. § 67-4-2012(h)(2) The property is shipped from an office, store, warehouse, factory or other place of storage in this state and the purchaser is the United States government.

T.C.A. § 67-4-2012(i)

T.C.A. § 67-4-2012(i)(1) Sales, other than sales of tangible personal property, are in this state if the taxpayer's market for the sale is in this state. The taxpayer's market for a sale is in this state:

T.C.A. § 67-4-2012(i)(1)(A) In the case of sale, rental, lease, or license of real property, if and to the extent the property is

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located in this state;

T.C.A. § 67-4-2012(i)(1)(B) In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

T.C.A. § 67-4-2012(i)(1)(C) In the case of sale of a service, if and to the extent the service is delivered to a location in this state;

T.C.A. § 67-4-2012(i)(1)(D) In the case of intangible property:

T.C.A. § 67-4-2012(i)(1)(D)(i) That is rented, leased, or licensed, if and to the extent the intangible property is used in this state; provided, that intangible property utilized in marketing a good or service to a consumer is considered used in this state if that good or service is purchased by a consumer who is in this state; and

T.C.A. § 67-4-2012(i)(1)(D)(ii) That is sold, if and to the extent the property is used in this state; provided, that:

T.C.A. § 67-4-2012(i)(1)(D)(ii)(a) A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is considered used in this state if the geographic area includes all or part of this state;

T.C.A. § 67-4-2012(i)(1)(D)(ii)(b) Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision (i)(1)(D)(i); and

T.C.A. § 67-4-2012(i)(1)(D)(ii)(c) All other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

T.C.A. § 67-4-2012(i)(2) If the state or states of assignment under subdivision (i)(1) cannot be determined, the state or states of assignment shall be reasonably approximated.

T.C.A. § 67-4-2012(i)(3) If the state of assignment cannot be determined under subdivision (i)(1) or reasonably approximated under subdivision (i)(2), such sale shall be excluded from the numerator and denominator of the sales factor.

T.C.A. § 67-4-2012(i)(4) If the application of this subsection (i) to a tax year results in a lower apportionment factor than under the application of the apportionment method in subsection (i) as it was in effect prior to January 1, 2016, then a taxpayer may annually elect to apply the apportionment method in subsection (i) as in effect prior to January 1, 2016; provided, however, the election must result in a higher apportionment factor for the tax year, and the taxpayer must have net earnings, rather than a net loss, for that tax year as computed under § 67-4-2006 .

T.C.A. § 67-4-2012(j)

T.C.A. § 67-4-2012(j)(1) For any qualified member of a qualified group, total receipts in this state shall equal the receipts from all sales of tangible personal property that are in this state as determined under subsection (h), plus the arithmetical average of the receipts from all sales other than sales of tangible personal property that are in this state as determined under each of the following alternative methods:

T.C.A. § 67-4-2012(j)(1)(A) All sales that are in this state as determined under subsection (i); and

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T.C.A. § 67-4-2012(j)(1)(B) All sales, other than sales of tangible personal property, where the earnings-producing activity is performed:

T.C.A. § 67-4-2012(j)(1)(B)(i) In this state; or

T.C.A. § 67-4-2012(j)(1)(B)(ii) Both in and outside this state and a greater proportion of the earnings-producing activity is performed in this state than in any other state, based on costs of performance.

T.C.A. § 67-4-2012(j)(2) For purposes of this subsection (j), the following definitions shall apply:

T.C.A. § 67-4-2012(j)(2)(A) "Qualified expenditures" means expenditures incurred in transactions with persons who are not members of the qualified group for the following:

T.C.A. § 67-4-2012(j)(2)(A)(i) Purchasing tangible personal property placed in service in this state by a member of the qualified group; and

T.C.A. § 67-4-2012(j)(2)(A)(ii) Payroll for employees employed by a member of the qualified group at a facility in this state;

T.C.A. § 67-4-2012(j)(2)(B) "Qualified group" means an affiliated group that meets both of the following criteria:

T.C.A. § 67-4-2012(j)(2)(B)(i) One or more members of the group is a qualified member; and

T.C.A. § 67-4-2012(j)(2)(B)(ii) The members of the group, during the tax period, either:

T.C.A. § 67-4-2012(j)(2)(B)(ii)(a) Incur, in the aggregate, qualified expenditures in an amount greater than one hundred fifty million dollars (\$150,000,000); or

T.C.A. § 67-4-2012(j)(2)(B)(ii)(b) Make sales that are subject to the tax imposed by chapter 6 of this title in excess of one hundred fifty million dollars (\$150,000,000);

T.C.A. § 67-4-2012(j)(2)(C) "Qualified member" means a person that is principally engaged in the sale of "telecommunications service," "mobile telecommunications service," "Internet access service," "video programming service," "direct-to-home satellite television programming service," or a combination of such services, as each such term is used or defined in chapter 6 of this title.

T.C.A. § 67-4-2012(j)(3) The method provided by this subsection (j) for determining the total receipts in this state of a qualified member shall be the only method for determining such receipts under this part.

T.C.A. § 67-4-2012(k) Notwithstanding any provision of this section to the contrary, any gain on the sale of an asset that is designated as goodwill and is required to be included as Class VII assets pursuant to the reporting requirements of 26 U.S.C. §§ 338 (b)(5) and 1060, and associated regulations, shall be excluded from both the numerator and the denominator of the apportionment formula receipts factor.

T.C.A. § 67-4-2012(l)

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T.C.A. § 67-4-2012(l)(1) A taxpayer whose principal business in Tennessee is manufacturing may elect to apportion net earnings to this state by multiplying the earnings by a fraction, the numerator of which is the total receipts of the taxpayer in Tennessee during the taxable year and the denominator of which is the total receipts of the taxpayer from any location within or outside of the state during the taxable year.

T.C.A. § 67-4-2012(l)(2) For purposes of this subsection (l), a taxpayer's principal business in Tennessee is manufacturing if more than fifty percent (50%) of the revenue derived from its activities in this state, excluding passive income, is from fabricating or processing tangible personal property for resale and consumption off the premises. For purposes of this subsection (l), "passive income" means dividend income, interest income, income derived from the sale of securities, and income derived from the licensing or sale of patents, trademarks, tradenames, copyrights, know-how, or other intellectual property.

T.C.A. § 67-4-2012(l)(3) To elect the method of apportionment provided in this subsection (l), the taxpayer shall notify the department of the election, in writing, on its return for the taxable year to which the election applies.

T.C.A. § 67-4-2012(l)(4) Once a taxpayer elects the method of apportionment provided in this subsection (l), such election shall remain in effect for a minimum of five (5) tax years and thereafter until revoked. The taxpayer may revoke the election after the minimum period by notifying the department of the revocation, in writing, on its return for the first taxable year to which the revocation applies. A taxpayer that revokes the election shall not be permitted to newly elect the method of apportionment provided in this subsection (l) for a period of five (5) tax years, beginning with the tax year in which the taxpayer revoked the previous election.

Amended by 2017 Tenn. Acts, ch. 181, s 28, eff. 4/26/2017. Amended by 2015 Tenn. Acts, ch. 514, s 9, eff. 7/1/2016. Amended by 2015 Tenn. Acts, ch. 514, s 8, eff. 5/20/2015. Amended by 2015 Tenn. Acts, ch. 514, s 8, eff. 5/20/2015. Acts 1999, ch. 406, § 3; 2000, ch. 982, §§ 20 - 22, 48; 2006, ch. 1019, § 19; 2011, ch. 467, § 2.

General Information

Currency Current through Acts 2017, ch. 493

Citation T.C.A. § 67-4-2012