Proposed Tax Collector Regulation 2025-1

Summary

Tax Collector Regulation 2025-1 ("Regulation") provides guidance and examples regarding allocating taxable gross receipts for services, intangible property, and financial instruments under Business and Tax Regulations Code 956.1(e) and (f).

The Regulation provides the generally applicable sequences for determining where gross receipts are allocated, colloquially known as "waterfalls."

For gross receipts from services, the "waterfall" is generally:

1. Contracts or books and records kept in the normal course of business
2. All other sources of information
3. Reasonable approximation
4. Billing address

For gross receipts from intangible property, the "waterfall" is generally:

1. Contracts or books and records kept in the normal course of business
2. Reasonable approximation
3. Billing address

For gross receipts from the sale of financial instruments, the "waterfall" is generally:

1. Customer billing address or commercial domicile
2. Reasonable approximation

The Regulation also provides special rules that override the general rules in specific circumstances.

The Office of the Treasurer & Tax Collector reviewed and considered sourcing rules and safe harbor provisions adopted by the State of California and other jurisdictions. The Regulation does not preclude the Tax Collector from determining gross receipts under Section 957 of the Business and Tax Regulations Code. The Regulation also does not change whether or the extent to which gross receipts are allocated (Section 956.1) or apportioned (Section 956.2) under Sections 953.20 through 953.26 and Section 956(b) of the Business and Tax Regulations Code.

This summary is not part of the Regulation and is only intended to provide basic information regarding the Regulation. Nothing in this summary supplants or replaces the requirements of the Regulation. To the extent there is a conflict between the text of this summary and the Regulation, the Regulation and not this summary shall control.

CITY AND COUNTY OF SAN FRANCISCO

Proposed Tax Collector Regulation 2025-1

GROSS RECEIPTS TAX – ALLOCATION OF GROSS RECEIPTS FROM SERVICES, INTANGIBLE PROPERTY, AND SALES OF FINANCIAL INSTRUMENTS

San Francisco Business and Tax Regulations Code

(a) Authority. The Tax Collector promulgates this regulation pursuant to the Tax Collector's authority to adopt rules and regulations under San Francisco Business and Tax Regulations Code Section 6.16-1. Unless otherwise indicated, all subsection references are to this regulation.

(b) Purpose. Sections 956.1(e) and 956.1(f) of the Business and Tax Regulations Code specify how gross receipts from services, intangible property, and sales of financial instruments are allocated to the City for purposes of the gross receipts tax. This regulation does not change whether or the extent to which gross receipts are allocated (Section 956.1) or apportioned (Section 956.2) under Sections 953.20 through 953.26 and Section 956(b) of the Business and Tax Regulations Code; it only clarifies how gross receipts are allocated for purposes of those sections under Sections 956.1(e) and 956.1(f). This regulation satisfies the requirements in Sections 956.1(e) and 956.1(f) of the Business and Tax Regulations Code that the Tax Collector promulgate regulations interpreting those sections.

(c) Definitions. For purposes of this regulation, all terms are as defined in Articles 6 and 12-A-1 of the Business and Tax Regulations Code, unless otherwise defined. Other terms are defined for purposes of this regulation as follows:

(1) "Cannot be determined" means that the taxpayer's records or the records of the taxpayer's customer which are available to the taxpayer do not indicate the location where the benefit of the service was received, the intangible property was used, or the customer of the sale of the financial instrument was located.

(2) "Complete transfer of all property rights" means a transfer of all property rights associated with the ownership of intangible property, as distinguished from a licensing of intangible property where the licensor retains some ownership rights in connection with the intangible property licensed to a buyer.

(3) "Intangible property" includes, but is not limited to, patents, copyrights, trademarks, service marks, trade names, licenses, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns,

drawings, manuals, trade secrets, stock, contract rights including broadcasting rights, and other similar intangible assets.

A. A "marketing intangible" includes, but is not limited to, the license of a copyright, service mark, trademark, or trade name where the value lies predominantly in the marketing of the intangible property in connection with goods, services, or other items.

B. A "non-marketing and manufacturing intangible" includes, but is not limited to, the license of a patent, a copyright, or trade secret to be used in a manufacturing or other non-marketing process, where the value of the intangible property lies predominately in its use in such process.

C. A "mixed intangible" includes, but is not limited to, the license of a patent, a copyright, service mark, trademark, trade name, or trade secrets where the value lies both in the marketing of goods, services, or other items as described in subsection (c)(3)A. and in the manufacturing process or other non-marketing purpose as described in subsection (c)(3)B.

(4) "Intangible property used in the City" means the intangible property is employed by the taxpayer's customer or licensee in the City. Intangible property used in the City does not include sales of financial instruments.

(5) "Professional Services" means the following: management services, tax services, payroll and accounting services, audit and attest services, actuary services, legal services, business advisory consulting services, technology consulting services, services related to brokering securities that generate commissions, investment advisory services other than asset management services as defined in subsection (d)(2)C.i. or (h)(4)D.i.g., and services related to the underwriting of debt or equity securities. "Professional Services" shall not include services subject to subsection (h)(4)D.

(6) "Reasonable approximation" means that, considering all sources of information other than the terms of the contract and the taxpayer's books and records kept in the normal course of business, the location where the benefit of the service was received, the location of the use of the intangible property, or the location of the customer for a sale of financial instruments is determined in a manner that is consistent with the activities of the customer to the extent such information is available to the taxpayer. Reasonable approximation shall be limited to the jurisdictions or geographic areas where the customer or purchaser, at the time of purchase, will receive the benefit of the services or use the intangible property (or, for sales of

financial instruments, where the customer is located), to the extent such information is available to the taxpayer. Information that is specific in nature is preferred over information that is general in nature.

A. If census is a reasonable approximation, the gross receipts subject to reasonable approximation shall be multiplied by a fraction, the numerator of which shall be the population of the City and County of San Francisco as determined by the most recent decennial U.S. census data as of the beginning of the tax year, and the denominator of which shall be the population of the U.S. jurisdictions or geographic areas where the customers or purchasers, at the time of purchase, will substantially receive the benefit of the services or materially use the intangible property (or, for sales of financial instruments, where the customers are significantly located), as determined by the most recent decennial U.S. census data as of the beginning of the tax year. The data published in the U.S. Census QuickFacts available at www.census.gov/quickfacts, or a successor website shall be the source for this calculation. If it can be substantiated by the taxpayer that the benefit of the service is being substantially received or intangible property is being materially used (or, for sales of financial instruments, the customers are significantly located) outside the U.S., then the populations of those foreign jurisdictions or geographic areas where the benefit of the service is being substantially received or the intangible property is being materially used (or, for sales of financial instruments, the customers are significantly located) shall be added to the population of U.S. jurisdictions or geographic areas described above.

B. If gross domestic product is a reasonable approximation, the gross receipts subject to reasonable approximation shall be multiplied by a fraction, the numerator of which shall be the gross domestic product of the City and County of San Francisco as determined by the most recent United States Department of Commerce Bureau of Economic Analysis reporting as of the beginning of the tax year, and the denominator of which shall be the gross domestic product of the U.S. jurisdictions or geographic areas where the customers or purchasers, at the time of purchase, will substantially receive the benefit of the services or materially use the intangible property (or, for sales of financial instruments, where the customers are significantly located), as determined by the most

recent United States Department of Commerce Bureau of Economic Analysis reporting as of the beginning of the tax year. The data at www.bea.gov/data/gdp/gdp-county-metro-and-other-areas or its successor website shall be the source for this calculation. If it can be substantiated by the taxpayer that the benefit of the service is being substantially received or intangible property is being materially used (or, for sales of financial instruments, the customers are significantly located) outside the U.S., then the gross domestic product of those foreign jurisdictions or geographic areas where the benefit of the service is being substantially received or the intangible property is being materially used (or, for sales of financial instruments, the customers are significantly located) shall be added to the gross domestic product of the U.S. jurisdictions or geographic areas described above.

(7) "Received the benefit of the services in the City" means the taxpayer's customer had either directly or indirectly received value from delivery of that service in the City.

(8) "Service" means a commodity consisting of activities engaged in by a person for another person for consideration.

(9) "To the extent" means that if the customer of a service receives the benefit of the service both in the City and outside the City or the customer uses the intangible property both in the City and outside the City, the gross receipts from the performance of the service or the sale of intangible property are included in the allocation to San Francisco according to the portion of the benefit of the services received in the City and/or the use of the intangible property in the City.

(d) Gross Receipts From Services. Gross receipts from services are in the City to the extent the purchaser of the services received the benefit of the services in the City.

(1) The location of the receipt of the benefit of the service shall be determined as follows:

A. Presumptions:

i. The location of the receipt of the benefit of the service shall be presumed to be in the City to the extent the service predominantly relates to:

a. Real property located in the City.

b. Tangible personal property and the tangible personal property is located in the City when the service is received. If the tangible personal property is delivered

directly or indirectly to the customer after the service is performed, the benefit of the service is received in the City if the property is delivered in the City, regardless of where the service is performed.

c. Intangible property used in the City.
d. Sales of financial instruments if the customer is located in the City.
e. Individuals who are physically present in the City at the time the service is delivered.

ii. The taxpayer or the Tax Collector may overcome a presumption identified in subsection (d)(1)A.i. by showing, based on a preponderance of the evidence, that the benefit of the service is received at a location other than that provided under subsection (d)(1)A.i. The party attempting to overcome a presumption shall first consider the information contained in the taxpayer's contracts or books and records kept in the normal course of business before considering all other sources of information to overcome the presumption.

B. For any service, the location of the receipt of the benefit of the service shall be substantiated by the taxpayer's contracts or books and records kept in the normal course of business.
C. If the location of the receipt of the benefit of the service cannot be substantiated pursuant to subsection (d)(1)B., all other sources of information may be used to substantiate the location of the benefit.
D. If the location of the receipt of the benefit of the service cannot be determined pursuant to subsection (d)(1)B. or C., the location of the benefit of the service shall be determined using reasonable approximation.
E. If the location of the benefit of the service cannot be determined pursuant to subsection (d)(1)B., C., or D., the location where the benefit of the service is received shall be in the City if the customer's billing address as indicated in the taxpayer's books and records is in the City.
F. Notwithstanding subsection (d)(1)E., for services provided under U.S. or State of California government contracts, if the location of the receipt of the benefit of the service cannot be allocated pursuant to subsection (d)(1)B., C., or D., such as when a contract

cannot be disclosed and no information about the service is publicly available, then the benefit of the service is deemed received by:

i. For U.S. government contracts, the fifty (50) states of the United States. The receipt shall be allocated to the City based on the ratio of San Francisco population over U.S. population as determined by the most recent U.S. census data as of the beginning of the tax year.

ii. For State of California governments contracts, the fifty-eight (58) California counties. The receipts shall be allocated to the City based on the ratio of San Francisco population over California population as determined by the most recent U.S. census data as of the beginning of the tax year.

G. Examples.

i. Benefit of the Service–Presumption, subsection (d)(1)A.i.a. Rental Property Corp owns one hundred (100) rental properties in the City and four hundred (400) rental properties in Town A, and contracts with Landscape Corp for landscape services for all the rental properties. Under the presumption at subsection (d)(1)A.i.a., the benefit of the service is received in both Town A and in the City because it predominately relates to real property located in both Town A and in the City.

ii. Benefit of the Service–Presumption, subsection (d)(1)A.i.a. Architecture Corp located in Town A contracts with Client Corp that has manufacturing plants in the City and Town B. Architecture Corp handles a major plant expansion for Client Corp concerning a manufacturing plant owned by its client in the City. Under the presumption at subsection (d)(1)Ai.a., regardless of where the Architecture Corp staff conduct their operations, the recipient of the service, Client Corp, receives all of the benefit of the service in the City because the service predominantly relates to Client Corp's manufacturing plant in the City.

iii. Benefit of the Service – Presumption, subsection (d)(1)(A)i.b. For a flat fee, Logistics Corp located in Town A contracts with Customer Corp to arrange for the pickup and delivery of Customer Corp’s goods between Town B and the City. For the purposes of this example, assume that Logistics Corp is not a for-hire motor carrier of property, a household goods carrier, or

otherwise exempt from the gross receipts tax. Within the contract these is also a provision for warehousing, repackaging, and other services performed in Town B with separately stated fees. The fees for these warehousing, repackaging, and other services are allocated independently from the fees for the services to move the goods from Town B to the City. Under the presumption at subsection (d)(a)(A)i.b., the benefit of both services is received in the City because the services predominantly relate to tangible personal property that was delivered to the City.

iv. Benefit of the Service–Presumption, subsection (d)(1)A.i.b. and Contracts or Books and Records, subection (d)(1)(B). Contractor Corp provides repair services for tanks and other heavy equipment to an agency of the U.S. government pursuant to contract. A tank becomes inoperable in a foreign geographic area. That tank is delivered to and repaired by Contractor Corp in the City. Upon completion of the repairs, Contractor Corp delivers the tank to the U.S. government agency in a foreign geographic area. Under the presumption at subsection (d)(1)A.i.b. the benefit of the service is received at the delivery location of the tangible personal property to which the service predominately relates. Contractor Corp's books and records kept in the normal course of business provide the location where the tank is delivered. As such, under subsection (d)(1)(B), the location of the receipt of the benefit of the service is substantiated as the foreign geographic area using taxpayer's books and records, which demonstrate that the foreign geographic area is where the taxpayer delivers the tangible personal property. Therefore the benefit of the service is received by the U.S. government agency in the foreign geographic area where the tank is delivered.

v. Benefit of the Service–Presumption, subsection (d)(1)A.i.c. and Contracts or Books and Records, subsection (d)(1)(B). R&D Corp located in Town A enters into an agreement with Pharmaceutical Corp located in the City for the development of pharmaceuticals. Pursuant to contract, R&D Corp receives milestone payments once clinical tests are performed in the City and Town B. Under the presumption at subsection

(d)(1)A.i.c., the location of the receipt of the benefit of the service is where the customer uses the intangible property to which the service predominately relates. Furthermore, under subsection (D)(1)(B), the location of the receipt of the benefit of the service is substantiated by the taxpayer's contracts or books and records, which indicate the intangible will be used in the City and Town B. Therefore the milestone payments from Pharmaceutical Corp to R&D Corp are allocated to the City and Town B because the clinical tests to be performed by R&D Corp are a service related to an intangible used in the City and Town B.

vi. Benefit of the Service Presumption, subsection (d)(1)A.i.e. and Contracts or Books and Records, subsection (d)(1)(B). Web Corp, located in Town A, provides internet content to its viewers and receives gross receipts from providing advertising services to other businesses. Pursuant to contract with its business customers, the advertisements are shown via the website to Web Corp viewers and the fee Web Corp collects is determined by reference to the number of times the advertisement is viewed and/or clicked on by viewers of the website. Web Corp, through its books and records kept in the normal course of business, can determine the location from which the advertisement is viewed and/or clicked on by viewers of the website. Under the presumption at subsection (d)(1)A.i.e., the service receipts will be allocated to the location where the individuals are physically present when the service is received because the service predominately relates to individuals. Furthermore, under subsection (D)(1)(B), the location of the receipt of the benefit of the service is substantiated by the taxpayer's books and records, which indicate that ten (10) percent of individuals viewing the advertisement and/or clicking the advertisement are in the City. Therefore the gross receipts from the advertising will be allocated to the City by a ratio of the number of viewings and/or clicks of the advertisement in the City to the total number of viewings and/or clicks on the advertisement everywhere.

vii. Benefit of the Service–Presumption, subsection (d)(1)A.i.e. and Other Sources of Information, subsection (d)(1)C. Call Center

Corp, located in the City, provides call center services for business customers. Fly Fishing Corp, located in Town A, sells equipment, training services, and travel services to its customers. It also provides call center services to those customers. Fly Fishing Corp subcontracts its call center operations to Call Center Corp. Call Center Corp does not maintain records regarding the location from which Fly Fishing Corp's customer calls originate. Under the presumption at subsection (d)(1)A.i.e., the benefit of the service Call Center Corp provides is located where individuals are physically present when the service is delivered because the service predominately relates to individuals. Under subsection(d)(1)(C), the location of the receipt of the benefit of the service cannot be substantiated by the taxpayer's contracts or books and records. Therefore, the taxpayer may use all other sources of information to substantiate the location of the receipt of the benefit of the service. Taxpayer knows from Fly Fishing Corp's website that thirty (30) percent of Fly Fishing Corp's total sales are made to customers located in the City. Therefore, Call Center Corp shall allocate thirty (30) percent of the gross receipts to the City.

viii. Benefit of the Service–Presumption, subsection (d)(1)(A)i.c. and U.S. Government customer, subsection (d)(1)F. Contractor Corp provides military field support services to an agency of the U.S. government. As disclosed in its contract, Contractor Corp maintains software for a military computer network. Under the presumption at subsection (d)(1)A.i.c., the benefit of the service is received by the U.S. government where it uses the software intangible to which the service predominately relates. However, Contractor Corp is unable to disclose or does not know the location where the software intangible is used by military personnel, and no information regarding the customer's use of the software is publicly available. Therefore, under subsection (d)(1)(F) the location where the benefit of the software maintenance is received shall be based upon the ratio of the population in the City compared to the population of the United States.

ix. Benefit of the Service–Overcoming a Presumption subsection (d)(1)A.ii. Pursuant to a contract, Assembly Corp, located in the City, contracts with Storage Corp, located in Town A, to assemble light sensor units. Assembly Corp documentation demonstrates that Storage Corp will incorporate the light sensor units into various security cameras placed on Storage Corp shipping containers located in Town B and Town C. Storage Corp provides the component materials of the light sensor units to Assembly Corp, which assembles the light sensor units in the City. Assembly Corp delivers the assembled light sensor units to Storage Corp in the City. Because Assembly Corp's service is predominately related to tangible personal property, and because delivery of that tangible personal property occurs in the City, under the presumption at subsection (d)(1)A.i.b., the benefit of the service Storage Corp received is presumed to be in the City. However, pursuant to subsection (d)(1)A.ii., Assembly Corp overcomes the presumption, based on a preponderance of the evidence, with contracts or books and records kept in the normal course of business showing that Storage Corp will not employ the light sensor units in the City.

(2) Notwithstanding subsection (d)(1), when gross receipts are from asset management services, but are not subject to subsection (h)(4)D., the benefit of the asset management services is received at the domiciles of the investors in the assets unless the investor is holding title to the assets for a beneficial owner. If the investor is holding title to the assets for a beneficial owner, the benefit of the asset management services is received at the domiciles of the beneficial owner of the assets.

A. The domicile of an investor is presumed to be the investor's billing address indicated in the records of the taxpayer. If the taxpayer has actual knowledge that the investor's principal place of business is different than the investor's billing address, there is no presumption. The domicile of a beneficial owner of assets managed by an asset manager shall be presumed to be the beneficial owner's billing address indicated in the records of the entity for whom the asset management services are rendered, or in the records of the asset manager. If the entity for whom the asset management services are rendered, or the asset manager, has actual knowledge that the

beneficial owner's primary residence or principal place of business is different than the beneficial owner's billing address, the presumption does not control.

B. The location of the receipt of the benefit of the service shall be determined as follows:
   i. Receipts from asset management services shall be allocated to the City in proportion to the average value of interest in the assets held by the asset's investors or beneficial owners domiciled in the City. To calculate the average value of interest, add the percentage of the value of interest in the assets held by investors or beneficial owners domiciled in the City at the beginning of the tax year to the percent of the value of interest in the assets held by investors or beneficial owners domiciled in the City at the end of the tax year, and divide by two (2).
   ii. If the taxpayer does not know the average value of interest in the assets held by the asset's investors or beneficial owners domiciled in the City, the receipts shall be allocated to the City to the extent the average value of interest in the assets held by the asset's investors or beneficial owners domiciled in the City is reasonably estimated to be in the City.

C. For purposes of this subsection (d)(2) only, the following definitions apply:
   i. "Asset management services" means the direct or indirect provision of management, distribution or administration services to funds. For the purposes of this definition only:
      a. "Administration services" include, but are not limited to, clerical, fund, shareholder or partner or member accounting, participant record-keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal, and tax services performed for a fund. Services qualify as administration services only if the provider of such service or services during the tax year also provides, or is affiliated with a person that provides, management or distribution services to the same fund during the same tax year.
      b. "Distribution services" include, but are not limited to, the services of advertising, servicing, marketing or

selling interest in a fund. The services of advertising, servicing or marketing interest in a fund qualify as distribution services only when the service is performed by a person who is either engaged in the business of selling interest in a fund or is affiliated with a person that is engaged in the service of selling interest in a fund.

c. "Management services" include, but are not limited to, the rendering of investment advice, directly or indirectly, to a fund, making determinations as to when sales and purchases of securities are to be made on behalf of the fund or providing services related to the selling or purchasing of securities constituting assets of a fund, and related activities.
d. "Fund" means an investment vehicle which gathers capital from one or more investors.

ii. "Beneficial owner" means any person who made an independent decision to invest assets. For purposes of this definition, "independent decision to invest assets" means a decision to invest assets made by a person who was not required or committed to do so by contract, agreement, or any other arrangement, understanding, or relationship except pursuant to law. The following are not beneficial owners for purposes of this definition:

a. Master funds, feeder funds, and similar entities that pool investors' assets. Master fund entities and feeder fund entities do not make independent decisions to invest their assets because they are required by agreement with their limited partners, feeder funds, or other investors to invest the assets.
b. A shareholder of a publicly-traded corporation whose board decides to invest the corporation's excess capital into an investment vehicle. The corporation, not the shareholder, makes the independent decision to invest its assets into an investment vehicle.
c. A participant of a defined benefit plan. Because participants have no control over whether to invest

toward the defined benefit plan they are not beneficial owners.

D. Examples.

i. Asset Management Co., commercially domiciled in Town A, is the General Partner of Equity Fund, a limited partnership also domiciled in Town A. Asset Management Co. owns a twenty (20) percent interest in Equity Fund. Pursuant to a contract with Equity Fund, Asset Management Co. receives a fee of two (2) percent of committed capital for providing asset management services to Equity Fund.

Equity Fund has two (2) limited partners. Limited Partner 1 is domiciled in the City and Limited Partner 2 is domiciled in Town B. At the beginning of the tax year, Limited Partner 1 holds a twenty (20) percent interest in Equity Fund and is not holding the investment for a beneficial owner. Limited Partner 2 owns a sixty (60) percent interest in Equity Fund and holds the investment for beneficial owners. Half of the beneficial owners are domiciled in the City and half are domiciled in Town B. Thus at the beginning of the tax year, fifty (50) percent of the value of interest in the assets is held by investors or beneficial owners domiciled in the City.

At the end of the tax year, the values of interest held by Asset Management Co. and the limited partners have not changed. However, the beneficial owners of Limited Partner 2, domiciled in Town B, are all now domiciled in Town B. Thus at the end of the tax year, twenty (20) percent of the value of interest in the assets is held by investors or beneficial owners domiciled in the City.

Thirty-five (35) percent of the fee Asset Management Co. receives from Equity Fund for asset management services is allocated to the City because the average value of interest held by investors or beneficial owners of the asset that are domiciled in the City is thirty-five (35) percent.

(50% + 20%)/ 2 = 35% = Average Value of Interest

ii. Same facts as in subsection (d)(2)D.i. except Asset Management Co. does not know the domiciles of the beneficial owners for which Limited Partner 2 holds its investment. However, Asset Management Co. knows that Limited Partner 2's business is investing the capital of the public employees of Town B who choose to contribute to retirement plans that qualify for deferred compensation treatment under Internal Revenue Code section 401(k). Therefore, the domiciles of all the beneficial owners of Limited Partner 2 are reasonably estimated to be in Town B both at the beginning and the end of the tax year because the funds Asset Management Co. manages from Limited Partner 2 are from individuals who, due to their current or past employment, are likely domiciled in Town B.

At the beginning of the tax year, twenty (20) percent of the value of interest in the assets is held by investors or beneficial owners domiciled in the City.

At the end of the tax year, twenty (20) percent of the value of interest in the assets is held by investors or beneficial owners domiciled in the City.

Therefore, twenty (20) percent of the fee Asset Management Co. receives from Equity Fund for asset management services is allocated to the City because the average value of interest held by investors or beneficial owners of the asset are domiciled in the City is twenty (20) percent.

(20% + 20%)/2 = 20% = Average Value of Interest

(3) Allocation Rule for Large Volume Professional Services. Notwithstanding subsection (d)(1), if the taxpayer provides services to more than 250 customers in any single professional service as listed in subsection (c)(5), then gross receipts from such services shall be allocated to the customer's billing address. However, if more than five (5) percent of its receipts from sales of that service are derived from a single customer, then receipts from this customer do not fall under this rule.

A. Examples.

i. Allocation for large volume services, subsection (d)(3). Audit Corp provides a full spectrum of services to its clients, including audit and attest services, business advisory consulting services, tax services, and limited legal services. All of Audit Corp's legal services involve advising foreign firms on how to restructure their businesses in order to facilitate their generic business interests in the United States. Audit Corp has thousands of customers for each of its tax, audit, and advisory consulting service lines, and it provides substantially similar services to each service line's customers. Audit Corp has less than 250 legal customers. Audit Corp shall allocate its receipts from tax services, audit and attest services, and business consulting services according to customer billing address because it has more than 250 customers in each of those service lines and in each of those services lines the services provided are substantially similar. Audit Corp shall allocate its receipts from legal services according to the methodology prescribed in subsection (d)(1).

ii. Allocation for large volume services, subsection (d)(3). Broker Dealer Corp is located in Town A and provides a range of services to its customers located in the City as well as Towns A, B, C. On behalf of more than 250 customers located in the City and Town A, Broker Dealer Corp buys and sells securities. Broker Dealer Corp earns a commission for each transaction it implements on behalf of these customers. Broker Dealer Corp also advises more than 250 customers located in the City and Towns B and C on business investment strategies, including advising customers on which securities to buy and sell. For performing the advisement services, Broker Dealer Corp earns an annual fee. Because Broker Dealer Corp provides two different services, it must allocate the gross receipts from those two services separately. Because the gross receipts constituting commissions are earned from more than 250 customers, and are earned from performing substantially similar services, Broker Dealer Corp shall allocate gross receipts constituting commissions to the billing addresses of those customers in the City and Town A. Because the gross receipts constituting annual fees are earned from more than

250 customers, and are earned from performing substantially similar services, Broker Dealer Corp shall allocate gross receipts constituting annual fee income to the billing address of those customers in the City and Towns B and C.

(e) Gross Receipts from Intangible Property. Gross receipts from intangible property, other than from sales of financial instruments, are in the City to the extent the property is used in the City.

(1) In the case of the complete transfer of all property rights in intangible property other than financial instruments, the location of the use of the intangible property shall be determined as follows:

A. The location of the use of the intangible property shall be presumed to be in the City to the extent that at the time of the sale the contract between the taxpayer and purchaser, or the taxpayer's books and records kept in the normal course of business, indicate that the intangible property will be used by the purchaser in the City.

i. Where the gross receipts from intangible property are derived from dividends or goodwill, the gross receipts shall be allocated to the City in the proportion that the gross receipts of the dividend payor or business entity in connection with goodwill allocated to the City under Section 956.1 of the Business and Tax Regulations Code for the most recent tax year completed prior to the sale, without regard to whether the entity was required to allocate receipts under Section 956.1 on a Gross Receipts Tax Return, bears to the total gross receipts of such entity. If, however, the dividend or sale of goodwill occurs more than six (6) months into the current tax year, then the current tax year's gross receipts shall be used. If the taxpayer does not have access to information to enable it to allocate gross receipts under this subsection (e)(1)A.i., the gross receipts that are dividends shall be allocated to the City if the dividend payor's commercial domicile is in the City, and receipts from the sale of goodwill shall be allocated to the City if the entity whose goodwill was sold has its commercial domicile in the City.

ii. Where the gross receipt from intangible property is interest, the interest gross receipt shall be allocated as follows:

a. Interest from investments that is not excluded from the definition of "gross receipts" under Section 952.3(d) of

the Business and Tax Regulations Code, other than interest from loans, shall be allocated to the City if the investment is managed in the City.

b. Interest from loans secured by real property shall be allocated to the City to the extent the real property is located within the City.

c. Interest from loans not secured by real property shall be allocated to the City if the borrower is located in the City.

d. For purposes of this subsection (e)(1)A.ii. only, "loans" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, and/or the purchase, in whole or in part, of such extension of credit from another person. Loans include participations, syndications, and leases treated as loans for federal income tax purposes. Loans shall not include: properties treated as loans under Section 595 of the federal Internal Revenue Code; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; non-interest bearing balances due to depository institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a Real Estate Mortgage Investment Conduit (REMIC), or other mortgage-backed or asset-backed security; and other similar items. For purposes of this subsection (e)(1)A.ii.d. only:

    1. "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

2. "Syndication" means an extension of credit in which two or more persons fund and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

B. If the extent of the use of the intangible property in the City cannot be determined under subsection (e)(1)A., or the presumption under subsection (e)(1)A. is overcome, the location where the intangible property is used shall be determined using reasonable approximation. Except for those gross receipts described in subsection (e)(1)A.i. and subsection (e)(1)A.ii., if the location of the use of the intangible property cannot be reasonably approximated by any other method, the location of the use of the intangible property shall be in this City to the extent the taxpayer's books and records kept in the normal course of business indicate that the intangible property was used in this City by the taxpayer for the most recent twelve (12) month tax year prior to the time of the sale of the intangible property.

C. If the extent of the use of the intangible property in the City cannot be determined pursuant to subsection (e)(1)A. or B., then the gross receipts shall be allocated to the City if the billing address of the purchaser is in the City.

D. Examples.

i. Intangible Property - Complete Transfer, subsection (e)(1)B. R&D Corp sells a patent to Manu Corp that will be used by Manu Corp to manufacture products for sale in the United States. The contract between R&D Corp and Manu Corp indicates that Manu Corp will have the exclusive rights to the patent for exploitation in the United States. At the time of the purchase, R&D Corp knows that Manu Corp has three factories that will use the patented process in manufacturing, one of which is located in the City. In the absence of specific information as to the amount of manufacturing Manu Corp does at each of the three locations, R&D Corp may reasonably approximate the location of the use by allocating the receipts from the sale equally among the three locations where Manu Corp has manufacturing plants, allocating thirty three (33) percent of the sale to the City.

ii. Intangible Property - Complete Transfer, subsection (e)(1)C. Same facts as in (e)(1)(D)i., except R&D Corp has no information regarding Manu Corp's activities. R&D Corp shall allocate the receipt to the billing address of Manu Corp.

(2) In the case of the licensing, leasing, rental, or other use of intangible property, not including the sales of intangible property provided for in subsection (e)(1), the location of the use of the intangible property in the City shall be determined as follows:

A. Marketing intangible.

i. Where a license is granted for the right to use intangible property in connection with the sale, lease, license, or other marketing of goods, services, or other items, the royalties or other licensing fees paid by the licensee for such right(s) are attributable to the City to the extent that the fees are attributable to the sale or other provision of goods, services, or other items purchased or otherwise acquired by the ultimate customers in the City. The contract between the taxpayer and the licensee of the intangible property or the taxpayer's books and records kept in the normal course of business shall be presumed to provide a method for determination of the ultimate customers in the City for the purchase of goods, services, or other items in connection with the use of the intangible property. This presumption may be overcome by the taxpayer or the Tax Collector by showing, based on a preponderance of the evidence, that the ultimate customers in the City are not determinable under the contract or the taxpayer's books and records.

ii. If the location of the use of the intangible property is not determinable under subsection (e)(2)A.i. or the presumption under subsection (e)(2)A.i. is overcome, the location of the use of the intangible property shall be determined using reasonable approximation. To determine the customer's or licensee's use of marketing intangibles in the City, factors that may be considered include the number of licensed sites in the City as compared to elsewhere, the volume of property manufactured, produced, or sold pursuant to the arrangement at locations in this City, or other data that reflects the relative usage of the intangible property in the City.

iii. If the location of the use of the intangible property cannot be determined under subsection (e)(2)A.i. or (e)(2)A.ii., it shall be presumed that the location of the use of the intangible property is in the City if the customer's or licensee's billing address is in the City.

B. Non-marketing and manufacturing intangibles.

i. Where a license is granted for the right to use intangible property other than in connection with the sale, lease, license, or other marketing of goods, services, or other items, the licensing fees paid by the licensee for such right(s) are attributable to the City to the extent that the use for which the fees are paid takes place in the City. The terms of the contract between the taxpayer and the licensee of the intangible property or the taxpayer's books and records kept in the normal course of business shall be presumed to provide a method for determination of the extent of the use of the intangible property in the City. This presumption may be overcome by the taxpayer or the Tax Collector by showing, based on a preponderance of the evidence, that the extent of the use for which the fees are paid is not determinable under the contract or the taxpayer's books and records.

ii. If the location of the use of the intangible property cannot be determined under subsection (e)(2)B.i. or the presumption in subsection (e)(2)B.i. is overcome, then the location of the use of the intangible property shall be determined using reasonable approximation.

iii. If the location of the use of the intangible property for which the fees are paid cannot be determined under subsections (e)(2)B.i. or (e)(2)B.ii., it shall be presumed that the use of the intangible property takes place in the City if the licensee's billing address is in the City.

C. Mixed intangibles.

i. Where a license of intangible property includes both a license of a marketing intangible and a license of a non-marketing or manufacturing intangible, and the fees to be paid in each instance are separately stated in the licensing contract, the Tax Collector will accept such separate statement for purposes of this subsection (e)(2) if it is reasonable. If the Tax Collector

determines that the separate statement is not reasonable, then the Tax Collector may allocate the fees using a reasonable method that accurately reflects the licensing of a marketing intangible and the licensing of a non-marketing or manufacturing intangible.

ii. Where the fees to be paid in each instance are not separately stated in the contract, it shall be presumed that the licensing fees are paid entirely for the license of a marketing intangible except to the extent that the taxpayer or the Tax Collector can reasonably establish otherwise. This presumption may be overcome, by a preponderance of the evidence, by the taxpayer or the Tax Collector, that the licensing fees are paid for both the licensing of a marketing intangible and the licensing of a non-marketing or manufacturing intangible, and the extent to which the fees represent the marketing intangible and the non-marketing or manufacturing intangible.

D. Examples.

i. Intangible Property - Marketing Intangible, subsection (e)(2)A.i. Crayon Corp and Dealer Corp enter into a license agreement whereby Dealer Corp as licensee is permitted to use trademarks that are owned by Crayon Corp in connection with Dealer Corp's sale of certain products to retail customers. Under the contract, Dealer Corp is required to pay Crayon Corp a licensing fee that is a fixed percentage of the total volume of monthly sales made by Dealer Corp of products using the Crayon Corp trademarks. Under the agreement, Dealer Corp is permitted to sell the products at multiple store locations, including store locations that are both within and without the City. The licensing fees that are paid by Dealer Corp are broken out on a per-store basis. The licensing fees paid to Crayon Corp by Dealer Corp represent fees from the licensing of a marketing intangible and the fees that are derived from the individual sales at stores in the City constitute gross receipts in the City.

ii. Intangible Property - Marketing Intangible, subsection (e)(2)A.ii. Moniker Corp enters into a license agreement with Sports Corp where Sports Corp is granted the right to use trademarks owned by Moniker Corp to brand sports equipment that is to be manufactured by Sports Corp or an unrelated entity, and to sell

the manufactured product to unrelated companies that make retail sales in a specified geographic region. Although the trademarks in question will be affixed to the tangible property to be manufactured, the license agreement confers a license of a marketing intangible. Neither the contract between the taxpayer and the licensee nor the taxpayer's books and records provide a method for determination of the City's customers of equipment manufactured with Moniker Corp's trademarks. The component of the licensing fee that constitutes sales of Moniker Corp in the City is reasonably approximated using the specified geographic region in which the retail sales are made.

iii. Intangible Property - Marketing Intangible, Wholesale, subsection (e)(2)A.iii. Cartoon Corp enters into a license agreement with Wholesale Corp where Wholesale Corp is granted the right to use Cartoon Corp's cartoon characters in the design and manufacture of tee shirts and sweatshirts which will be sold to various retailers who will in turn sell them to members of the public. Cartoon Corp is unable to develop information regarding the location of the ultimate customer of the products designed and manufactured in connection with Cartoon Corp's cartoon characters. Cartoon Corp shall allocate the licensing fee using Wholesale Corp's billing address as specified in subsection (e)(2)A.iii.

iv. Intangible Property - Non-marketing and Manufacturing Intangible, subsection (e)(2)B.i. Formula Corp and Appliance Corp enter into a license agreement whereby Appliance Corp is permitted to use a patent owned by Formula Corp to manufacture and sell appliances at stores owned by Appliance Corp within a certain geographic region. The license agreement specifies that Appliance Corp is to pay Formula Corp a royalty equal to a fixed percentage of the gross receipts from the products sold. The contract does not specify any other fees. The appliances are manufactured and sold in the City and several other towns. Given these facts, it is presumed that the licensing fees are paid for the license of a manufacturing intangible. Since Formula Corp can demonstrate the percentage of manufacturing by Appliance Corp that takes place in the City using the patent, that percentage of the total

licensing fee paid to Formula Corp under the contract will constitute Formula Corp's gross receipts in the City.

v. Intangible Property - Non-marketing and Manufacturing Intangible, subsection (e)(2)B.ii. Mechanical Corp enters into a license agreement with Spa Corp where Spa Corp is granted the right to use the patents owned by Mechanical Corp to manufacture mechanically operated spa covers for spas that Spa Corp manufactures. Neither the terms of the contract nor the taxpayer's books and records indicate the extent of the use of the patent in the City. However, there is public information that Spa Corp has three manufacturing locations in the City and an additional six manufacturing locations in various other towns. Mechanical Corp may reasonably approximate the location of the use of the intangible property and allocate thirty three (33) percent of the licensing fees to the City.

vi. Intangible Property - Non-marketing and Manufacturing Intangible, subsection (e)(2)B.iii. Same facts as in (e)(3)D.v. except that Spa Corp is a small, privately held manufacturing corporation that has no publicly available information as to its manufacturing locations, Mechanical Corp shall allocate all of the licensing fees to the City if Spa Corp's billing address is in the City.

vii. Intangible Property – Non-marketing Intangible, subsection (e)(2)B.i. R&D Corp located in the City enters into an agreement with Pharmaceutical Corp located in Town A for development of pharmaceuticals. R&D Corp receives an upfront, lump-sum payment from Pharmaceutical Corp for the licensing rights of the licensed drug compounds that are used in the City for continuing research and development in the City. Since the location of the use of the licensed drug compounds are in the City, the lump-sum payment is allocated to the City.

viii. Intangible Property - Mixed Intangible, subsection (e)(2)C.i. Axel Corp enters into a two-year license agreement with Biker Corp in which Biker Corp is granted the right to produce motor scooters using patented technology owned by Axel Corp, and also to sell such scooters by marketing the fact that the scooters were manufactured using the special technology. The scooters are manufactured outside the City, but Biker Corp is

granted the right to sell the scooters to individuals in a geographic area in which the City's population constitutes twenty-five (25) percent of the total population in the geographic area during the period in question. The license agreement 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 agreement constitutes both the license of a marketing intangible and the license of a non-marketing intangible. Assuming that the separately stated fees are reasonable, the Tax Collector will: (1) attribute no part of the licensing fee paid for the nonmarketing intangible to the City, and (2) attribute twenty-five (25) percent of the licensing fee paid for the marketing intangible to the City.

ix. Intangible Property - Mixed Intangible, subsection (e)(2)C.ii. Same facts as in (e)(2)D.viii., except that the licensing agreement requires an upfront licensing fee to be paid by Biker Corp to Axel Corp but does not specify which percentage of the fee is derived from Biker Corp's right to use Axel Corp's patented technology. Unless either the taxpayer or the Tax Collector reasonably establishes otherwise, it is presumed that the licensing fees are paid entirely for the license of a marketing intangible. In such cases, it will be presumed that twenty five (25) percent of the licensing fee constitutes sales in the City.

(f) When a sale is from the provision of a service, and tangible or intangible property, or from the provision of tangible and intangible property, the following rules apply:

(1) If the value of each portion of the sale is readily ascertainable, then each portion shall be separately allocated using such values.

(2) If the value of each portion is not readily ascertainable, then the principal purpose for entering into the contract will determine how to allocate the gross receipts.

A. Example: Social Media Corp purchases ten computers, along with two hours of information technology maintenance service, from Computer Corp pursuant to contract. Social Media Corp pays one fee and the price for the computers and the price for the information technology maintenance service are not easily ascertainable.

Because Social Media Corp's principal purpose for entering into the contract was to obtain ten computers, the gross receipts shall be characterized and allocated as gross receipts from the sale of tangible personal property.

(g) Gross Receipts From Sales of Financial Instruments. Gross receipts from sales of financial instruments are allocated to the location of the customer as follows:

(1) For purposes of this section (g), the customer is the person, without regard to intermediaries, who gains the greatest possession of economic rights in the financial instruments.

(2) Where the customer is an individual, the gross receipts shall be allocated to the City if the customer's billing address, as determined at the end of the tax year, is in the City.

(3) Where the customer is a corporation or other business entity, the gross receipts shall be allocated to the City if the customer's commercial domicile is in the City. The commercial domicile of the corporation or business entity shall be presumed to be in the City as determined at the end of the tax year in the taxpayer's books and records kept in the normal course of business. If the taxpayer uses the commercial domicile of the corporation or business entity as provided by the taxpayer's books and records kept in the normal course of business as the method of allocating sales to the City, the Tax Collector will accept this method of allocation. This presumption may be overcome by the taxpayer by showing, based on a preponderance of the evidence, that other credible documentation provides that the commercial domicile of the corporation or business entity is outside the City as provided by the taxpayer's books and records kept in the normal course of business. If the taxpayer believes it has overcome the presumption and allocates the sale outside the City based on other credible documentation, the Tax Collector may examine the taxpayer's alternative method to determine if the commercial domicile presumption has been overcome and, if so, whether the taxpayer's alternate method of allocation reasonably reflects the location of the commercial domicile of the corporation or business entity.

(4) If the customer's billing address cannot be determined under subsection (g)(2) or the customer's commercial domicile cannot be determined under subsection (g)(3), then the location of the customer shall be determined using reasonable approximation.

(h) Special Rules.

(1) In allocating gross receipts to the City under Section 956.1 of the Business and Tax Regulations Code, the Tax Collector shall consider the effort and

expense required to obtain the necessary information, as well as the resources of the taxpayer seeking to obtain this information, and may accept alternative sources of information or a reasonable approximation when appropriate, such as when the necessary data of a business cannot be reasonably developed from financial records maintained in the regular course of business.

A. Example: Misc Corp, a corporation located in the City, provides limited bookkeeping services to clients both within and outside the City. Some clients have several operations among various jurisdictions. For the past ten (10) years, Misc Corp's only records for the sales of these services have consisted of invoices with the billing address for the client. Misc Corp's records have been consistently maintained in this manner. If the Tax Collector determines that Misc Corp cannot determine, pursuant to financial records maintained in the regular course of its business, the location where the benefit of the services it performs are received under the rules in this regulation, then Misc Corp's gross receipts from sales of services will be allocated to the City using the billing address information maintained by the taxpayer. Misc Corp will not be required to alter its recordkeeping method for purposes of this regulation.

(2) The following special rules shall apply in determining the method of reasonable approximation of the location for the receipt of the benefit of the services, the location of the use of the intangible property, or the location of the customer for gross receipts from the sale of financial instruments:

A. The taxpayer's reasonable approximation method shall be used unless the Tax Collector shows, by a preponderance of the evidence, that such method is not reasonable. If the Tax Collector shows that the taxpayer's approximation method is not reasonable, the Tax Collector shall reasonably approximate the location of the receipt of the benefit of the services, the location of the use of the intangible property, or the location of the customer for gross receipts from sales of financial instruments.

B. The method of reasonable approximation shall reasonably relate to the gross receipts of the taxpayer. For example, if the taxpayer includes in its reasonable approximation methodology countries which are identified in its contracts or its books and records maintained in the normal course of business but for which no gross

receipts are received during the tax years at issue, then the reasonable approximation methodology being used by the taxpayer does not reasonably relate to the gross receipts of the taxpayer.

C. Notwithstanding subsection (h)(2)A., once a taxpayer has used a reasonable approximation method to determine the location where the benefit of the services was received, the location of the use of the intangible property, or the location of the customer for gross receipts from sales of financial instruments, then the taxpayer must continue to use that method in subsequent tax years. A change to a different method of reasonable approximation may not be made without the permission of the Tax Collector. A taxpayer shall notify the Tax Collector of the revised reasonable approximation method, and provide a brief description of the revised reasonable approximation method, in a form and manner prescribed by the Tax Collector. Where the Tax Collector has examined the reasonable approximation method and accepted it in writing, the Tax Collector will continue to accept that method, absent any change of material facts such that the method no longer reasonably reflects where the benefit of the services was received, the location of the use of the intangible property, or the location of the customer for gross receipts from sales of financial instruments.

(3) This regulation does not preclude the application of the Tax Collector's authority to determine gross receipts under Section 957 of the Business and Tax Regulations Code.

(4) The following industry special rules apply to allocating gross receipts to the City under Section 956.1 of the Business and Tax Regulations Code, and do not change whether or the extent to which gross receipts are allocated (Section 956.1) or apportioned (Section 956.2) under Sections 953.20 through 953.26 and Section 956(b) of the Business and Tax Regulations Code.

A. Franchisors

i. Definition. For purposes of this subsection (h)(4)A. only, the term "business of franchising" means a trade or business which includes the granting of a license by the taxpayer (franchisor) of a trademark, trade name, or service mark, to market or use a product or service under such trademark, trade name, or service mark in accordance with methods and procedures prescribed by the taxpayer.

ii. The gross receipts of franchisors shall be allocated to the City pursuant to Section 956.1 of the Business and Tax Regulations Code, the other subsections of this regulation 2025-1, and any other regulations adopted under Section 956.1, except as otherwise provided by this subsection (h)(4)A.

iii. The following gross receipts shall be attributed to the City if the franchisee's place of business is located in the City:

a. Fees received from the franchisee for national or regional advertising placed by the franchisor.

b. Fees received for providing administrative or advisory services.

c. Fees received for site investigation, selection, and acquisition of a place of business, or potential place of business, of the franchisee, or potential franchisee.

iv. Fees or royalties received for the use of the franchisor's trademark, trade name, or service mark or the right to market a product or service shall be attributed to the City if the franchisee's place of business is located in the City.

v. Nothing in this subsection (h)(4)A. changes whether or the extent to which gross receipts are allocated (Section 956.1) or apportioned (Section 956.2) under Sections 953.20 through 953.26 and Section 956(b) of the Business and Tax Regulations Code.

B. Motion Picture and Television Film Producers, Distributors, and Television Networks

i. In General. When a person in the business of producing or distributing motion picture, film, or television programming, or television commercials, whether broadcast or telecast through the public airwaves, by cable, direct or indirect satellite transmission, or any other means of communication, either through a network (including owned and affiliated stations) or through an affiliated, unaffiliated, or independent television broadcasting station has gross receipts from sources both within and without the City, the amount of gross receipts allocated to the City shall be determined pursuant to this subsection (h)(4)B. This subsection (h)(4)B. does not apply to a person that earns receipts from the provision of cable television services.

ii. The gross receipts of motion picture and television film producers, distributors, and television networks shall be allocated to the City pursuant to Section 956.1 of the Business and Tax Regulations Code, the other subsections of this regulation 2025-1, and any other regulations adopted under Section 956.1, except as otherwise provided by this subsection (h)(4)B. Gross receipts from new technologies, including but not limited to video streaming and online websites, to the extent they are utilized by motion picture and television film producers, producers of television commercials, and television networks to generate gross receipts, shall be treated in a manner consistent with this subsection (h)(4)B.

iii. For purposes of this subsection (h)(4)B. only, the following definitions shall apply:

a. "Advertising revenue" includes advertising from all sources, including but not limited to online advertisements, embedded advertisements, product placement, barter transactions, and the sale of air time used for advertising purposes.

b. "Cable television services" means the transmission to subscribers of video programming or other programming service over a cable system.

c. A "distributor" is a person that, upon completion of production, licenses a film for exhibition by a related or unrelated third party. The distributor may also develop and fund the campaign to market the film. A theater that exhibits the film is not a distributor based upon that fact. A producer may also be a distributor if it licenses its own films or those of others for exhibition.

d. "Film" means the physical embodiment of a play, story, or other literary, commercial, educational, or artistic work, produced for telecast, as a motion picture, video tape, disc, or any other type of format or medium.

1. A "film" is deemed to be tangible personal property.

2. "Film" does not include video cassettes or discs sold for personal use.

3. Each episode of a series of films produced for television shall constitute a separate film notwithstanding that the series relates to the same principal subject and is produced during one or more television seasons.

e. A "producer" is a person that develops and creates motion picture, television, or web-based content.

f. A "subscriber" to a subscription television telecaster is the individual residence or other outlet that is the ultimate recipient of the transmission.

g. "Tangible personal property" used in the business, whether owned or rented, shall include but is not limited to sets, props, wardrobes, and other similar equipment.

h. "Telecast" means the transmission of an electronic signal or other signal by radiowaves or microwaves or by wires, lines, coaxial cables, wave guides, fiber optics, satellite transmissions directly or indirectly to viewers or subscribers, or by any other means of communication.

iv. Gross receipts allocated to the City under Section 956.1 of the Business and Tax Regulations Code shall include all gross receipts derived by the taxpayer from sources within the City including, but not limited to, the following:

a. Gross receipts, including advertising revenue, from films in release to theaters and television stations located in the City.

b. Gross receipts, including advertising revenue, from films in release to or by a television network for network telecast shall be attributed to the City in the ratio that the audience for such network stations (owned and affiliated) located in the City bears to the total audience for all such network stations (owned and affiliated) everywhere. The audience shall be determined by rate card values published annually in the Television & Cable Factbook (http://www.warren-news.com/factbook.htm), if available, or by other published market surveys, or if none is available, by

population data published by the United States Census Bureau, provided that the source selected is consistently used from year to year for that purpose.

c. Gross receipts, including advertising revenue, from films in release to subscription television telecasters shall be attributed to the City in the ratio that the subscribers for such telecaster located in the City bears to the total subscribers of such telecaster everywhere. If the number of subscribers cannot be determined accurately from records maintained by the taxpayer, the ratio shall be determined on the basis of the applicable year's statistics on subscribers published in Cable Vision, International Thompson Communication Inc., Denver, Colorado, if available, or by other published market surveys, or, if none is available, by population data published by the United States Census Bureau for all states in which the telecaster has subscribers, provided that the source selected is consistently used from year to year for that purpose.

d. Receipts from sales and rentals, licensing or other disposition of video cassettes and discs or any other format or medium intended for personal use shall be included as provided in Sections 956.1(c) and (d) of the Business and Tax Regulations Code.

v. Nothing in this subsection (h)(4)B. changes whether or the extent to which gross receipts are allocated (Section 956.1) or apportioned (Section 956.2) under Sections 953.20 through 953.26 and Section 956(b) of the Business and Tax Regulations Code.

C. Print Media

i. In General. Except as specifically modified by this subsection (h)(4)C., when a taxpayer in the business of publishing, selling, licensing, or distributing newspapers, magazines, periodicals, trade journals, or other printed material has gross receipts from sources both within and without this City, the amount of gross receipts allocated to the City from such business activity shall be computed pursuant to Section 956.1 of the Business and Tax Regulations Code, the other subsections of this

regulation 2025-1, and any other regulations adopted under Section 956.1.

ii. Definitions. For purposes of this subsection (h)(4)C. only, the following definitions are applicable to the terms contained in this subsection, unless the context clearly requires otherwise.

a. "Print or printed material" includes, without limitation, the physical embodiment or printed version of any thought or expression including, without limitation, a play, story, article, column or other literary, commercial, educational, artistic, or other written or printed work. The determination of whether an item is or consists of print or printed material shall be made without regard to its content. Printed material may take the form of a book, newspaper, magazine, periodical, trade journal, or any other form of printed matter and may be contained on any medium or property.

b. "Purchaser" and "subscriber" mean the individual, residence, business, or other outlet which is the ultimate or final recipient of the print or printed material. Neither of such terms shall mean or include a wholesaler or other distributor of print or printed material.

iii. Gross receipts in the City shall include all gross receipts of the taxpayer from sources within the City, including, but not limited to, the following:

a. Gross receipts derived from the sale of tangible personal property, including printed materials, delivered or shipped to a purchaser or a subscriber in the City.

b. Except as provided in subsection (h)(4)C.iii.c., gross receipts derived from advertising and the sale, rental or other use of the taxpayer's customer lists or any portion thereof shall be attributed to the City as determined by the taxpayer's "circulation factor" during the tax year. Each publisher of printed material containing advertising shall determine a City circulation factor for each of its publications. This circulation factor shall be equal to the ratio that the particular publication's in-City

circulation to purchasers and subscribers bears to its total circulation to purchasers and subscribers everywhere. The circulation factor for an individual publication shall be determined by reference to the rating statistics as reflected in such sources as Audit Bureau of Circulations or other comparable sources, provided that the source selected is consistently used from year to year for such purpose. If no sources are available or, if available, not in a form or content sufficient for such purposes, then the circulation factor shall be determined from the taxpayer's books and records.

c. When specific items of advertisements can be shown, upon clear and convincing evidence, to have been distributed solely to a limited regional or local geographic area in which the City is located, the taxpayer may petition, or the Tax Collector may require, that such receipts be attributed on the basis of a regional or local geographic area circulation factor and not be included in the calculation of the circulation factor provided by subsection (h)(4)C.iii.b. A regional or local geographic circulation factor shall be determined for each individual publication and each regional or local geographic area and shall be based upon the ratio that the taxpayer's circulation to purchasers and subscribers located in the City of the printed material containing such specific items of advertising bears to the taxpayer's total circulation of such printed material to purchasers and subscribers located within such regional or local geographic area.

iv. Nothing in this subsection (h)(4)C. changes whether or the extent to which gross receipts are allocated (Section 956.1) or apportioned (Section 956.2) under Sections 953.20 through 953.26 and Section 956(b) of the Business and Tax Regulations Code.

D. Mutual Fund Service Providers and Asset Management Service Providers

i. Definitions. As used in this subsection (h)(4)D. only, unless the context otherwise indicates, the following terms have the following meanings:

a. "Administration services" include, but are not limited to, clerical, fund, or shareholder accounting; participant record-keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal, and tax services performed for a regulated investment company. Services qualify as administration services only if the provider of such service or services during the tax year also provides, or is affiliated with a person that provides, management or distribution services to the same regulated investment company during the same tax year.

b. "Distribution services" include, but are not limited to, the services of advertising, servicing, marketing, or selling shares of a regulated investment company. The services of advertising, servicing, or marketing shares qualify as distribution services only when the service is performed by a person who is, or in the case of a closed-end company was, either engaged in the business of selling regulated investment company shares or affiliated with a person that is engaged in the service of selling regulated investment company shares. In the case of an open-end company, such service of selling shares must be performed pursuant to a contract entered into pursuant to 15 United States Code, Section 80a-15(b), as amended.

c. "Management services" include, but are not limited to, the rendering of investment advice, directly or indirectly, to a regulated investment company, making determinations as to when sales and purchases of securities are to be made on behalf of the regulated investment company or providing services related to the selling or purchasing of securities constituting assets of a regulated investment company, and related activities. Services qualify as management services only when such activity or activities are performed pursuant to a

contract with the regulated investment company entered into pursuant to 15 United States Code, Section 80a-15(a), as amended, for a person that has entered into such a contract with the regulated investment company or for a person that is affiliated with a person that has entered into such a contract with a regulated investment company.

d. "Domicile" is defined as follows:

1. The domicile of a shareholder of a regulated investment company is presumed to be the shareholder's mailing address on the records of the regulated investment company or the mutual fund service provider. If the regulated investment company or the mutual fund service provider has actual knowledge that the shareholder's primary residence or principal place of business is different than the shareholder's mailing address, the presumption does not control. Shareholders of record that own shares for the benefit of others are subject to the special rule contained in subsection (h)(4)D.ii.a.1.

2. The domicile of a beneficial owner of assets managed by a mutual fund service provider shall be presumed to be the beneficiary's mailing address on the records of the entity for whom the asset management services are rendered, or on the records of the mutual fund service provider. If the entity for whom the asset management services are rendered, or the mutual fund service provider, has actual knowledge that the beneficiary's primary residence or principal place of business is different than the beneficiary's mailing address, the presumption does not control. Owners of record that are not the beneficial owner are subject to the special rule contained in subsection (h)(4)D.ii.b.1.

e. “Mutual fund service provider” means any unitary business that derives income from the direct or indirect provision of management, distribution or administration services to or on behalf of a regulated investment company.

f. “Regulated Investment Company” means a regulated investment company as defined in Section 851 of the Internal Revenue Code.

g. “Asset management services” means the direct or indirect provision of management, distribution or administrative services to entities other than regulated investment companies, if those services would be management, distribution or administrative services within the meaning of subsections (h)(4)D.i.a., b., or c., if provided directly or indirectly to a regulated investment company.

ii. Allocation of gross receipts to the City. Gross receipts shall be allocated to the City pursuant to Section 956.1 of the Business and Tax Regulations Code, the other subsections of this regulation 2025-1, and any other regulations adopted under Section 956.1, except as provided in this subsection (h)(4)D.ii.:

a. Gross receipts from the direct or indirect provision of management, distribution, or administration services to or on behalf of a regulated investment company are allocated by the use of a shareholder ratio. This ratio is calculated by multiplying total receipts for the tax year from each separate regulated investment company for which the mutual fund service provider performs management, distribution, or administration services by a fraction, the numerator of which is the average of the number of shares owned by the regulated investment company’s shareholders domiciled in the City at the beginning of and at the end of the regulated investment company’s tax year, and the denominator of which is the average of the number of the shares owned by the regulated investment company’s shareholders everywhere at the beginning of and at the end of the regulated investment company’s tax year.

1. If the domicile of a shareholder is unknown to the mutual fund service provider because the shareholder of record is a person that holds the shares of a regulated investment company as depositor for the benefit of others, the mutual fund service provider may utilize any reasonable basis, such as the zip codes of underlying shareholders, in order to determine the proper location for the allocation of these shares. If no information is obtained such that a reasonable basis can be developed to determine the proper location for the allocation of these shares, then all of the shares held by the shareholder of record shall be disregarded in computing the shareholder ratio for the fund in issue. If all of the shares for the fund in issue are disregarded pursuant to this subsection (h)(4)D.ii.a.1., then the gross receipts from the fund in issue shall be multiplied by a fraction, the numerator of which shall be the gross domestic product of the City and County of San Francisco as determined by the most recent United States Department of Commerce Bureau of Economic Analysis reporting as of the beginning of the tax year, and the denominator of which shall be the gross domestic product of the United States as determined by the most recent United States Department of Commerce Bureau of Economic Analysis reporting as of the beginning of the tax year. The data at www.bea.gov/data/gdp/gdp-county-metro-and-other-areas or its successor website shall be the source for this calculation. .

2. The regulated investment company's tax year for computing the shareholder ratio shall be either the tax year that ends during the tax year of the principal member of the mutual

fund service provider's combined group or the tax year of the principal member of the mutual fund service provider's combined group. Once a method for computing the shareholder ratio is chosen, that methodology should be applied consistently in later years.

b. If a mutual fund service provider has receipts from performing asset management services, in addition to performing services for regulated investment companies, these services shall be allocated to the City if the domicile of the beneficial owner of the assets is located in the City.

1. In the case of asset management services directly or indirectly provided to a pension plan, retirement account or institutional investor, such as private banks, national and international private investors, international traders or insurance companies, receipts shall be allocated to the City to the extent the domicile of the beneficiaries of the plan, beneficiaries of the account or beneficiaries of the similar pool of assets held by the institutional investor, is in the City. If the individual domiciles of the beneficiaries are not available, a mutual fund service provider may utilize any reasonable basis in order to determine the domiciles of the individual beneficiaries, including information based on zip codes or other statistical data.

2. In the event the domicile of the beneficiaries is not or cannot be obtained, and the taxpayer cannot devise a reasonable method to approximate this information, the gross receipts shall be multiplied by a fraction, the numerator of which shall be the gross domestic product of the City and County of San Francisco as determined by the most recent United States Department of

Commerce Bureau of Economic Analysis reporting as of the beginning of the tax year, and the denominator of which shall be the gross domestic product of the United States as determined by the most recent United States Department of Commerce Bureau of Economic Analysis reporting as of the beginning of the tax year. The data at www.bea.gov/data/gdp/gdp-county-metro-and-other-areas or its successor website shall be the source for this calculation.

iii. Nothing in this subsection (h)(4)D. changes whether or the extent to which gross receipts are allocated (Section 956.1) or apportioned (Section 956.2) under Sections 953.20 through 953.26 and Section 956(b) of the Business and Tax Regulations Code

(i) Applicability date. This regulation applies to the allocation of gross receipts under Sections 956.1(e) and 956.1(f) of the Business and Tax Regulations Code for tax years starting on or after January 1, 2025.