

Part I ADMINISTRATION OF THE GOVERNMENT

Title IX TAXATION

Chapter 63 TAXATION OF CORPORATIONS

Section 42 ALTERNATIVE METHOD OF DETERMINING NET INCOME

Section 42. If the allocation and apportionment provisions of this chapter are not reasonably adapted to approximate the net income derived from business carried on within this commonwealth, a corporation may apply to the commissioner to have its income derived from business carried on within this commonwealth determined by a method other than that set forth in section thirty-eight. Such application shall be made by attaching to its duly-filed return a statement of the reasons why the corporation believes that the allocation and apportionment provisions of this chapter are not reasonably adapted to approximate its net income derived from business carried on within this commonwealth and a description of the method of allocation sought by it. A corporation which so applies shall, upon receipt of a request therefor from the

commissioner, file with the commissioner, under oath of its treasurer, a statement of such additional information as the commissioner may require.

If, in the judgment of the commissioner the allocation and apportionment provisions of this chapter are not reasonably adapted to approximate the corporation's net income derived from business carried on within this commonwealth, the commissioner shall by reasonable methods determine the amount of net income derived from business activity carried on within this commonwealth. The amount thus determined shall be the net income taxable under this chapter and the foregoing determination shall be in lieu of the determination required by section thirty-eight. If an alternative method is used by the commissioner hereunder, the commissioner, in his discretion, with respect to the two next succeeding taxable years, may require similar information from such corporation if it shall appear that the allocation and apportionment provisions of this chapter are not reasonably adapted to approximate for the applicable year the corporation's net income derived from business carried on within this commonwealth and may by reasonable methods determine such income in the same manner as if the corporation had applied to have its income so determined.