

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

E.I. DU PONT DE NEMOURS AND )  
COMPANY & SUBSIDIARIES, )  
Plaintiff, )

Case No. \_\_\_\_\_

v. )

COMPLAINT FOR DECLARATORY )  
RELIEF )

THE STATE OF NEBRASKA; THE )  
NEBRASKA DEPARTMENT OF REVENUE; )  
and TONY FULTON, IN HIS OFFICIAL )  
CAPACITY AS NEBRASKA TAX )  
COMMISSIONER, )  
Defendants )

**PARTIES**

1. Plaintiff E. I. du Pont de Nemours and Company and subsidiaries, (hereinafter “EID” or “Plaintiff”) was a commonly owned group of corporations that conducted business in Nebraska.

2. Effective on or about June 1, 2019, E. I. du Pont de Nemours and Company filed notices with Secretaries of State in all U.S. States to begin doing business as “E. I. du Pont de Nemours and Company d/b/a Corteva Agriscience.”

3. E. I. du Pont de Nemours and Company d/b/a Corteva Agriscience is a Delaware corporation with its principal place of business in Wilmington, Delaware.

4. The Plaintiff has not assigned the rights or liabilities at issue in this lawsuit.

5. Defendant Tony Fulton is the Tax Commissioner of the State of Nebraska acting in his official capacity (hereinafter “Tax Commissioner”).

6. Defendant Nebraska Department of Revenue (“Department”) is an administrative agency of Defendant State of Nebraska (“State”).

7. The Tax Commissioner acting in his official capacity, the Department, and the State of Nebraska are collectively the Defendants.

### **JURISDICTION, DECLARATORY RELIEF, AND VENUE**

8. The Court has subject matter jurisdiction pursuant to Neb. Rev. Stat. §§ 24-302 and 25-21,149. Declaratory relief is available pursuant to Neb. Rev. Stat. §§ 25-21,149 and 25-21,159. Injunctive relief, including temporary injunctive relief, is available pursuant to Nebraska Revised Statute §§ 25-1062 to 25-1080.

9. Venue is proper in this judicial district pursuant to Neb. Rev. Stat. §§ 25-403.01 and 25-21,206.

### **FACTS AND BASES FOR RELIEF**

#### **A. Department of Revenue's Notice of Deficiency Issued To EID**

10. E. I. du Pont de Nemours and Company was a corporation governed under subchapter C of the Internal Revenue Code of the United States, and thus was subject to Nebraska corporate income tax during the calendar years ended December 31, 2012 through December 31, 2014 (the "Years at Issue").

11. E. I. du Pont de Nemours and Company filed combined Nebraska corporate income tax returns on behalf of EID for the Years at Issue.

12. EID timely filed Nebraska income tax returns, and paid the taxes listed on those returns, for the Years at Issue.

13. On or after December 21, 2018, the Department issued a Notice of Deficiency ("Notice") to EID, alleging that EID owed additional Nebraska income tax for the Years at Issue in the amount of \$9,147,123, plus a penalty of \$457,357 and interest calculated through

February 19, 2019 in the amount of \$1,308,062, for a total of \$10,912,542. A true and correct copy of that notice is attached to this Complaint as Exhibit 1.

14. The Plaintiff has not paid any of the tax, interest or penalty as assessed in the Notice.

15. The Department alleged in the Notice that EID miscalculated the apportionment factor on its Nebraska income tax returns for the Years at Issue.

16. The apportionment factor is used on a Nebraska corporate income tax return to determine what portion of a corporation's income is attributable to business conducted in Nebraska.

17. The Notice substantially increased the Nebraska apportionment factor of EID for the Years at Issue, which in turn substantially increased the percentage of EID's income that was subject to Nebraska income tax.

18. By increasing the percentage of EID's income that was subject to Nebraska income tax in the Years at Issue, the Department alleged that EID owed additional Nebraska income tax for the Years at Issue.

19. As explained further below, the Department's application of Nebraska statute regarding EID's apportionment of income to Nebraska is unconstitutional.

#### **B. Declaratory Relief Is Appropriate To Challenge The Constitutionality Of A Tax Statute**

20. "A declaratory judgment is the proper method to challenge the constitutionality of a tax statute." *Trumble v. Sarpy County Bd.*, 283 Neb. 486, 495, 810 N.W.2d 732, 740 (2012).

21. Neb. Rev. Stat. § 25-21,149 states in relevant part: “Any action or proceeding seeking a declaratory judgment that any tax, penalty, or part thereof is unconstitutional shall be brought within twelve months after such tax or penalty was levied or assessed.”

22. This action is timely. The Notice was dated December 21, 2018, so the tax and penalty listed in the Notice could not have been levied or assessed before December 21, 2018. This action is being filed on December 20, 2019, and is thus brought within twelve months after the tax or penalty listed in the Notice was levied or assessed.

**C. This Court Has Authority To Entertain This Action For Declaratory Judgment**

23. Neb. Rev. Stat. § 25-21,150 states: “Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status or other legal relations thereunder.”

24. In *Boettcher v. Balka*, 252 Neb. 547, 553, 567 N.W.2d 95, 99 (1997), the Nebraska Supreme Court stated: “It is clear under the language of § 25-21,150 that a declaratory judgment action may be used to determine one's rights, status, or other legal relations under a legislative enactment relating to revenue and taxation.”

25. “The remedy of declaratory judgment may be available to a litigant when a controversy exists as a result of a claim asserted against one who has an interest in contesting such claim, the controversy is between persons whose interests are adverse, the party seeking declaratory relief has a legally protectable interest or right in the subject matter of the

controversy, and the issue involved is capable of present judicial determination.” *Mullendore v. School Dist. No. 1 of Lancaster Cty.*, 223 Neb. 28, 33, 388 N.W.2d 93, 98 (1986).

26. The Plaintiff is allowed under Nebraska law to challenge the constitutionality of a tax statute, as applied to it, via this claim for declaratory relief, and this court has discretion to entertain the Plaintiff’s action for a declaratory judgment. There is no other adequate and serviceable remedy available.

**D. Plaintiff Will Suffer Irreparable Harm Absent An Injunction.**

27. Plaintiff will suffer irreparable harm absent an injunction. In *Sack v. State*, 259 Neb. 463, 610 N.W.2d 385 (2000), the Nebraska Supreme Court determined that, in the circumstances of that case, a taxpayer could not, under Neb. Rev. Stat. § 77-2798, seek a refund of Nebraska income taxes paid following the issuance of a proposed assessment of deficiency. While Plaintiff contends that the determination in *Sack* was erroneous and inapplicable to the instant case, Defendants may determine that, if EID is required to pay the taxes that are allegedly due under the Notice, EID may not be able to bring a claim for refund of those taxes, and will have no ability to challenge the imposition of an unconstitutional tax.

28. Notwithstanding any Nebraska statute, collection of tax by the Defendants would constitute a tax result which is violative of the federal Constitution, as explained further below.

29. Defendants should be temporarily and permanently enjoined from collecting the tax as it alleged was due in the Notice.

**CLAIMS FOR RELIEF**

**Count I**

**Declaratory Judgment**

**Against Violation Of Due Process Clause, 14<sup>th</sup> Amendment to the U.S. Constitution  
And Violation Of The Commerce Clause, Article I, § 8, U.S. Constitution  
Against Defendants State and Department**

30. The Plaintiff incorporates by reference all previous paragraphs in this Complaint as if fully set forth herein.

31. The Plaintiff brings this Claim against Defendants the State of Nebraska and the Department.

32. The vast majority of the tax assessed in the Notice arose from the Defendants' adjustments to the apportionment of EID's income.

33. The federal taxable income of a unitary business operating both within and without Nebraska is presumed to be subject to apportionment. Neb. Rev. Stat. § 77-2734.06(1).

34. To determine the amount of income attributable to Nebraska, a business multiplies its federal taxable income, as adjusted, by a sales factor. Neb. Rev. Stat. §77-2734.05(1).

35. "The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in [Nebraska] during the tax period, and the denominator of which is the total sales everywhere during the tax period." Neb. Rev. Stat. § 77-2734.14(1).

36. Prior to January 1, 2014, "sales" meant "all gross receipts of the taxpayer." Neb. Rev. Stat. § 77-2734.04(7). Beginning January 1, 2014, "sales" means all gross receipts except, *inter alia*, "[a]mounts received from hedging transactions involving intangible assets" or "[n]et gains from marketable securities held for investment." Neb. Rev. Stat. § 77-2734.04(20)(b)-(c).

37. Pursuant to Neb. Rev. Stat. § 77-2734.10(1), “[t]he sales factor shall include the income from intangibles such as interest, royalties, or dividends and the net income from gains on the sale of intangibles.”

38. EID earned income from Forward Exchange Contracts (“FECs”) and marketable securities during the Years at Issue.

39. An FEC is a contract between two parties whereby one party contracts to sell and the other party contracts to buy one currency for another, at an agreed future date, at a rate of exchange that is fixed at the time in which the contract is entered. Because EID operates a global business, fluctuations in currency exchange rates create risks. FECs help to mitigate these risks and more accurately present EID’s worldwide financial operating performance unaffected by currency fluctuations.

40. EID included the income from FECs and marketable securities in its income apportionable to Nebraska during the Years at Issue. EID also included the gross receipts from FECs and marketable securities in its sales factor denominators during the Years at Issue.

41. The Defendants removed receipts earned from FECs and marketable securities from the denominator of EID’s sales factors during the Years at Issue. The removal of the receipts from the denominator substantially increased the percentage of receipts attributable to Nebraska.

42. It is a fundamental requirement of both the Due Process Clause of the Fourteenth Amendment to the United States Constitution (hereinafter “Due Process Clause”) and the Commerce Clause in Article I, § 8, United States Constitution (hereinafter “Commerce Clause”) that a state may not tax value earned outside its borders. *ASARCO, Inc. v. Idaho State Tax Comm’n*, 458 U.S. 307, 315 (1982).

43. Both the Due Process and Commerce Clauses of the U.S. Constitution require an apportionment formula to be “fair.” *Container Corp. of Am. v. Franchise Tax Bd.*, 463 U.S. 159, 169 (1983). An apportionment formula will be constitutionally “fair” if it is both internally and externally consistent. *Id.* Internal consistency requires that an apportionment formula “be such that, if applied by every jurisdiction, it would result in no more than all of the unitary business’ income being taxed.” *Id.* External consistency requires that “the factor or factors used in the apportionment formula must actually reflect a reasonable sense of how income is generated.” *Id.*

44. The U.S. Supreme Court has held that a court must “strike down the application of an apportionment formula if the taxpayer can prove by clear and cogent evidence that the income attributed to the State is in fact ‘out of all appropriate proportions to the business transacted in that State or has led to a grossly distorted result.’” *Id.* at 170 (internal quotations and citations omitted).

45. Here, the application of Nebraska’s apportionment formula proposed by Defendants is unconstitutional because it results in income attributed to Nebraska that is “out of all appropriate proportions to the business transacted in [Nebraska]” and “has led to a grossly distorted result.” *Id.* The apportionment percentage reported by EID on its original Nebraska corporate income tax returns ranged from 0.6193% to 0.6935% during the Years at Issue. As a result of the Defendants’ removal of the receipts from the FECs and the marketable securities, EID’s adjusted apportionment percentage ranged from 2.3185% to 2.7759%. The application of the apportionment formula therefore increases EID’s Nebraska apportionment percentage by a multiple of 3.74 to 4.00, an increase of 261% to 300% during the Years at Issue. This drastic increase in EID’s apportionment percentage grossly overstates the scope of EID’s business in Nebraska, leading to a grossly distorted result, and is therefore unconstitutional.

46. The Nebraska apportionment formula is also not externally consistent and is therefore unconstitutional under the Due Process and Commerce Clauses of the U.S. Constitution. Here, the Defendants have continued to treat the income from the FECs and marketable securities as income subject to apportionment, but have removed the receipts generating that income from the sales factor. By excluding the receipts that generated the income, the Defendants are applying an apportionment formula does not “actually reflect a reasonable sense of how income is generated.” *Container Corp.*, 463 U.S. at 169. *See Mobil Oil Corp. v. Vt.*, 445 U.S. 425, 461 (1980) (Stevens, J., dissenting) (“[u]nless the sales . . . values connected with the production of income by the payor corporations are added to the denominator of the apportionment formula, the inclusion of earnings attributable to those corporations in the apportionable tax base will inevitably cause . . . income to be overstated.”)

47. Plaintiff is entitled to declaratory relief.

**Count II**  
**Declaratory Judgment**  
**Against Violation Of Due Process Clause, 14<sup>th</sup> Amendment to the U.S. Constitution**  
**Against Defendants State and Department**

48. The Plaintiff incorporates by reference all previous paragraphs in this Complaint as if fully set forth herein.

49. The Plaintiff brings this Claim against Defendants the State of Nebraska and the Department.

50. It is a fundamental requirement of the Due Process Clause of the U.S. Constitution that a state may not deprive a person of property without due process of law.

51. The administrative procedure that was originally available to the Plaintiff to protest the Notice through the Department did not provide the Plaintiff with a constitutionally sufficient opportunity to dispute the Notice.

52. While the availability of other remedies may be a factor bearing upon a trial court's discretionary decision whether to entertain an action for a declaratory judgment, *Mullendore*, 223 Neb. at 33, 388 N.W.2d at 98, the potential availability of other remedies does not bar an action for declaratory judgment.

53. There is no other adequate and serviceable remedy. This action for declaratory relief cannot be barred because the result would be that Plaintiff is deprived of due process of law.

### **Count III**

#### **Declaratory Judgment**

#### **Against Violation Of Due Process Clause, 14<sup>th</sup> Amendment to the U.S. Constitution And Violation Of The Commerce Clause, Article I, § 8, U.S. Constitution Against Defendant Tax Commissioner In His Official Capacity**

54. The Plaintiff incorporates by reference all previous paragraphs in this Complaint as if fully set forth herein.

55. The Plaintiff brings this Claim against Defendant the Tax Commissioner acting in his official capacity.

56. The vast majority of the tax assessed in the Notice arose from the Defendants' adjustments to the apportionment of EID's income.

57. The federal taxable income of a unitary business operating both within and without Nebraska is presumed to be subject to apportionment. Neb. Rev. Stat. § 77-2734.06(1).

58. To determine the amount of income attributable to Nebraska, a business multiplies its federal taxable income, as adjusted, by a sales factor. Neb. Rev. Stat. §77-2734.05(1).

59. “The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in [Nebraska] during the tax period, and the denominator of which is the total sales everywhere during the tax period.” Neb. Rev. Stat. § 77-2734.14(1).

60. Prior to January 1, 2014, “sales” meant “all gross receipts of the taxpayer.” Neb. Rev. Stat. § 77-2734.04(7). Beginning January 1, 2014, “sales” means all gross receipts except, *inter alia*, “[a]mounts received from hedging transactions involving intangible assets” or “[n]et gains from marketable securities held for investment.” Neb. Rev. Stat. § 77-2734.04(20)(b)-(c).

61. Pursuant to Neb. Rev. Stat. § 77-2734.10(1), “[t]he sales factor shall include the income from intangibles such as interest, royalties, or dividends and the net income from gains on the sale of intangibles.”

62. EID earned income from Forward Exchange Contracts (“FECs”) and marketable securities during the Years at Issue.

63. An FEC is a contract between two parties whereby one party contracts to sell and the other party contracts to buy one currency for another, at an agreed future date, at a rate of exchange that is fixed at the time in which the contract is entered. Because EID operates a global business, fluctuations in currency exchange rates create risks. FECs help to mitigate these risks and more accurately present EID’s worldwide financial operating performance unaffected by currency fluctuations.

64. EID included the income from FECs and marketable securities in its income apportionable to Nebraska during the Years at Issue. EID also included the gross receipts from FECs and marketable securities in its sales factor denominators during the Years at Issue.

65. The Defendants removed receipts earned from FECs and marketable securities from the denominator of EID's sales factors during the Years at Issue. The removal of the receipts from the denominator substantially increased the percentage of receipts attributable to Nebraska.

66. It is a fundamental requirement of both the Due Process and the Commerce Clauses of the U.S. Constitution that a state may not tax value earned outside its borders. *ASARCO, Inc. v. Idaho State Tax Comm'n*, 458 U.S. 307, 315 (1982).

67. Both the Due Process and Commerce Clauses of the U.S. Constitution require an apportionment formula to be "fair." *Container Corp. of Am. v. Franchise Tax Bd.*, 463 U.S. 159, 169 (1983). An apportionment formula will be constitutionally "fair" if it is both internally and externally consistent. *Id.* Internal consistency requires that an apportionment formula "be such that, if applied by every jurisdiction, it would result in no more than all of the unitary business' income being taxed." *Id.* External consistency requires that "the factor or factors used in the apportionment formula must actually reflect a reasonable sense of how income is generated." *Id.*

68. The U.S. Supreme Court has held that a court must "strike down the application of an apportionment formula if the taxpayer can prove by clear and cogent evidence that the income attributed to the State is in fact 'out of all appropriate proportions to the business transacted in that State or has led to a grossly distorted result.'" *Id.* at 170 (internal quotations and citations omitted).

69. Here, the application of Nebraska’s apportionment formula proposed by Defendants is unconstitutional because it results in income attributed to Nebraska that is “out of all appropriate proportions to the business transacted in [Nebraska]” and “has led to a grossly distorted result.” *Id.* The apportionment percentage reported by EID on its original Nebraska corporate income tax returns ranged from 0.6193% to 0.6935% during the Years at Issue. As a result of the Defendants’ removal of the receipts from the FECs and the marketable securities, EID’s adjusted apportionment percentage ranged from 2.3185% to 2.7759%. The application of the apportionment formula therefore increases EID’s Nebraska apportionment percentage by a multiple of 3.74 to 4.00, an increase of 261% to 300% during the Years at Issue. This drastic increase in EID’s apportionment percentage grossly overstates the scope of EID’s business in Nebraska, leading to a grossly distorted result, and is therefore unconstitutional.

70. The Nebraska apportionment formula is also not externally consistent and is therefore unconstitutional under the Due Process and Commerce Clauses of the U.S. Constitution. Here, the Defendants have continued to treat the income from the FECs and marketable securities as income subject to apportionment, but have removed the receipts generating that income from the sales factor. By excluding the receipts that generated the income, the Defendants are applying an apportionment formula does not “actually reflect a reasonable sense of how income is generated.” *Container Corp.*, 463 U.S. at 169. *See Mobil Oil Corp. v. Vt.*, 445 U.S. 425, 461 (1980) (Stevens, J., dissenting) (“[u]nless the sales . . . values connected with the production of income by the payor corporations are added to the denominator of the apportionment formula, the inclusion of earnings attributable to those corporations in the apportionable tax base will inevitably cause . . . income to be overstated.”)

**Count IV**  
**Declaratory Judgment**  
**Against Violation Of Due Process Clause, 14<sup>th</sup> Amendment to the U.S. Constitution**  
**Against Defendant Tax Commissioner In His Official Capacity**

71. The Plaintiff incorporates by reference all previous paragraphs in this Complaint as if fully set forth herein.

72. The Plaintiff brings this Claim against Defendant the Tax Commissioner acting in his official capacity.

73. It is a fundamental requirement of the Due Process Clause of the U.S. Constitution that a state may not deprive a person of property without due process of law.

74. The administrative procedure that was originally available to the Plaintiff to protest the Notice through the Department did not provide the Plaintiff with a constitutionally sufficient opportunity to dispute the Notice.

75. While the availability of other remedies may be a factor bearing upon a trial court's discretionary decision whether to entertain an action for a declaratory judgment, *Mullendore*, 223 Neb. at 33, 388 N.W.2d at 98, the potential availability of other remedies does not bar an action for declaratory judgment.

76. There is no other adequate and serviceable remedy. This action for declaratory relief cannot be barred because the result would be that Plaintiff is deprived of due process of law.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff requests declaratory judgments as requested in this Complaint. Plaintiff also reserves the right to file Motions for temporary and permanent injunctive relief to prevent irreparable harm from violations of constitutional rights.

Respectfully submitted this 20<sup>th</sup> day of December, 2019.

BY: s/Patrick E. Brookhouser, Jr., #19245

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Nicholas K. Niemann, #16626  
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ATTORNEYS FOR PLAINTIFF



**E.I. du Pont de Nemours & Company & Subs**  
**ID #394815**  
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**Audit Contact Information:**

Manager: *Mike Simmons, 308-865-5455, [mike.simmons@nebraska.gov](mailto:mike.simmons@nebraska.gov)*  
Reviewer: *Deneen Beans, 308-865-5466, [deneen.beans@nebraska.gov](mailto:deneen.beans@nebraska.gov)*

**Exhibit**

**1**

# NEBRASKA

Good Life. Great Service.

DEPARTMENT OF REVENUE

December 21, 2018

EI Dupont de Nemours & Company & Subs  
PO Box 1954  
Chestnut Run Plaza, 974 Centre Road  
Wilmington, DE 19805

Attention: David Hartley, Tax Manager

RE: Nebraska Identification Number: 394815

Notice of Deficiency Determination

Summary of Audit Results

Tax Category	Audit Period	Tax	Interest	Penalty	Total
Corporate Income Tax	2012-2014	\$9,147,123.00	\$1,308,062.00	\$457,357.00	\$10,912,542.00
Total		\$9,147,123.00	\$1,308,062.00	\$457,357.00	\$10,912,542.00

The Nebraska Department of Revenue has completed an audit of the types of tax for the periods listed above. Copies of work papers supporting our assessment are enclosed. Interest has been computed through February 19, 2019. If the assessment is paid before or after this date, please adjust the interest by \$751.82 per day if paid before 12/31/18 and \$1,253.04 if paid after 12/31/18. The corporate income tax audit is subject to any finalized Internal Revenue Service adjustments.

If you agree with the audit results, please return the enclosed Remittance Advice with your payment or send the payment EFT, if you are required to do so, before the end of the protest period. An Application for Abatement of Penalty, Form 21, is available to request relief from penalty that resulted from circumstances beyond your control.

If you disagree with the audit results, you have 60 days to timely file a written protest. Send your protest to the Nebraska Department of Revenue, Attention Legal Section, P.O. Box 94818, Lincoln, Nebraska 68509-4818. If no written protest is filed within the allotted time, the assessment will become final and will be due. If you have any questions, please contact me.

For the Tax Commissioner



Michael Simmons, CPA  
Audit Manager  
Compliance Division  
(308) 865-5455  
E-Mail: [mike.simmons@nebraska.gov](mailto:mike.simmons@nebraska.gov)

Enclosures

Tony Fulton, Tax Commissioner  
[revenue.nebraska.gov](http://revenue.nebraska.gov)

PO Box 94818  
Lincoln, Nebraska 68509-4818  
402-471-5729

**Nebraska Department of Revenue**  
• Remittance Advice

**Company Name:** E.I. du Pont de Nemours & Company & Subs  
**NE Identification Number:** 394815

*Please return with your payment to ensure that your account is properly credited.*

Tax Category	TRC	Audit Period		Net Amount Due	Amount Paid	Check if EFT
		From	Through			
Corporate Income Tax	09	1/1/2012	12/31/2012	1,970,419.00		
Corporate Income Tax	09	1/1/2013	12/31/2013	4,266,486.00		
Corporate Income Tax	09	1/1/2014	12/31/2014	4,675,637.00		
<b>Total</b>				<b>10,912,542.00</b>		

- If you are required to use EFT payment for any of the above tax categories, then you must also use EFT for any payments in those same tax categories. Please return this form with a notation of any EFT payments made.
- Payments will be applied as you indicate in the amount paid column. If the amount paid column does not agree with the net amount due, the payments will be applied first to the net amount of tax, then interest and remainder to any penalty.

Send Payments to:

Nebraska Department of Revenue  
PO Box 94818  
Lincoln, NE 68509-4818

Questions on Protest

Legal Services  
(402)471-5918

General Questions or Assistance

Taxpayer's Assistance  
(800)742-7474

Attention: Audit Services

State of Nebraska - Department of Revenue  
 E.I. du Pont de Nemours & Company & Subs: NE ID #394815  
 Corporate Income Tax Assessment

Prepared By DAB 9/18  
 Reviewed By WJS 12/18

Tax Year	Source	2012	2013	2014	Total
Apportionable Income	Sch 33	1,271,824,979	2,526,350,723	2,420,244,716	
Apportionment Factor	Sch 34	2.3185%	2.4441%	2.7759%	
NE Apportioned Income		29,487,262	61,746,538	67,183,573	
NE Adjustments:					
Capital Loss Carryover	Sch 30A	(711,496)			
NOL					
Non Apportionable Income					
Others					
NE Taxable Income		28,775,766	61,746,538	67,183,573	
Tax Rates:					
First \$50,000 (\$100,000 beginning 2008)		5.58%	5.58%	5.58%	
Excess of \$50,000 (\$100,000 beg. 2008)		7.81%	7.81%	7.81%	
Tax Due		2,245,157	4,820,175	5,244,807	
Tax Paid and Credits	History	423,777	1,168,658	1,251,434	
Additional Tax Due on NE Taxable Income		1,821,380	3,651,517	3,993,373	9,466,270
Additional Nebraska Tax Credits	Sch 32	220,519	98,627	1	319,147
Additional Tax Due		1,600,861	3,552,890	3,993,372	9,147,123
Interest Calculation:					
Date Due		3/15/2013	3/15/2014	3/15/2015	
Interest Through Date		2/19/2019	2/19/2019	2/19/2019	
# of Days after 1-1-13 --> 12-31-18		2,117	1,752	1,387	
# of Days after 12-31-18		50	50	50	
Total Interest Due		289,515	535,951	482,596	1,308,062
5% Penalty Due Per Statute § 77-2790(1)(a)		80,043	177,645	199,669	457,357
Total Due		1,970,419	4,266,486	4,675,637	10,912,542
Interest Per Day @ 3% through 12/31/18		131.58	292.02	328.22	751.82
Interest Per Day @ 5% after 12/31/18		219.30	486.70	547.04	1,253.04

Interest is calculated by using each rate as set out below for the portion of the period of the delinquency that such rate is in effect. Interest is not calculated on overpayments based on Statute 27-2794(2)(e).

Period	Interest Rate
1-1-13 through 12-31-18	3%
1-1-19 and after	5%

E.I. du Pont de Nemours & Company & Subs - NE ID #394815  
 Determination of Nebraska Capital Loss Carryover - 2012

DAB 9/18  
 MS 10/18

Year	Capital Loss Carryover From Prior Year	Form 1120 - Schedule D		Total Federal Capital Gain/(Loss)	Current Year Apportionment Factor	Nebraska Capital Gain/(Loss)	Amount Used in Current Year	Carryover Amount Available for Future Years
		Reported Short-Term Capital Gain/(Loss)	Reported Long-Term Capital Gain/(Loss)					
2011	0	(15,067)	(141,943,388)	(141,958,455)	0.5012%	(711,496)	0	(711,496)
2012	(711,496)	(82,718)	167,446,743	167,364,025	2.3185%	3,880,335	(711,496)	0

Purpose: To determine the Nebraska Capital Loss Carryover for 2012.

**Recap of Nonrefundable & Refundable Credits  
 Approved by Department per History**

Year	3800N Nonrefundable Credit	3800N Refundable Credit	Total
2012	0	0	0
2013	0	90,888	90,888
2014	0	188,867	188,867
<b>Totals</b>	<b>0</b>	<b>279,755</b>	<b>279,755</b>

**Examination of 3800N Refundable Credits for 2012 through 2014 -  
 Method I - Apportionment Using Property and Payroll Factors  
 Calculated Only for Pioneer Hi-Bred International (Only Company with Nebraska R&D Activity)**

	Source	2012	2013	2014
Amount of Federal Research Credit Allowed per Form 6765 provided by Taxpayer	(1)	26,925,408		
Amount of Federal Research Credit Allowed per Form 6765 - Per MTC Sch 2028	Sch 32A		23,659,833	23,578,968
Nebraska Property Factor (rounded to 4 decimals)	Sch 32Aa	6.29%	6.01%	6.09%
Nebraska Payroll Factor (rounded to 4 decimals)	Sch 32Aa	4.62%	4.66%	4.58%
Total of Property and Payroll Factors (rounded to 4 decimals)		10.91%	10.67%	10.67%
Average of Property and Payroll Factors (rounded to 4 decimals)		5.46%	5.34%	5.34%
Federal Credit Allowed - Amount per Form 6765 x Average of Property and Payroll Factors		1,470,127	1,263,435	1,259,117
Regular Nebraska R & D Credit - Off campus - Allowed Federal Credit x 15%		220,519	189,515	188,868
Refundable Credit Approved by Department	History	0	90,888	188,867
Additional Nebraska Tax Credits		220,519	98,627	1
		(1)	(2)	(3)

Footnotes

- 2012 - The Taxpayer did not claim the Nebraska R&D tax credit for this year. The credit was determined using information provided by the Taxpayer after the post-audit conference.
- 2013 - The additional Nebraska tax credit is due to the Taxpayer determining the R&D Credit using the entire federal research credit amount per Form 6765 and a combined average property and payroll factor for both E.I. Du Pont de Nemours & Company and Pioneer Hi-Bred International. According to the MTC Auditor, only Pioneer Hi-Bred International had R&D activity in Nebraska. Therefore, the figures shown here are only for Pioneer Hi-Bred International. It is noted that the Taxpayer correctly only included the activity for Pioneer Hi-Bred International for 2014.
- 2014 - Additional NE tax credit is due to rounding.

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 NEBRASKA RESEARCH & DEVELOPMENT CREDIT  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/12 - 12/31/14

SCHEDULE 2028

MS 12/13

		12/31/12	12/31/13	12/31/14
AS REPORTED	Sch #	0	90,888	188,867

NEBRASKA R&D CREDIT PER AUDIT:

METHOD I:

1. AMOUNT OF FEDERAL RESEARCH CREDIT ALLOWED FOR THIS TAX YEAR PER FED 6765			23,659,833 <sup>to 32</sup>	23,578,968 <sup>to 32</sup>
2. NEBRASKA PROPERTY FACTOR	2028A		6.0083%	6.0940%
3. NEBRASKA PAYROLL FACTOR	2028A		4.6645%	4.5773%
4. ADD LINES 2 AND 3		0.0000%	10.6729%	10.6713%
5. AVERAGE PROPERTY AND PAYROLL FACTORS		0.0000%	5.3364%	5.3357%
6. MULTIPLY LINE 1 BY LINE 5		0	1,262,583	1,258,103
7. REGULAR RESEARCH TAX CREDIT (L 6 X 15%)		0	189,387	188,715
TOTAL NEBRASKA R&D CREDIT PER METHOD 1		0	189,387	188,715

METHOD II:

8. ENTER ALL QUALIFIED EXPENSES FOR R&D ACTIVITIES IN NEBRASKA				
9. ENTER AMOUNT OF EXPENSES ON L 8 WHICH WERE NOT PERFORMED ON A CAMPUS OF COLLEGE OR UNIVERSITY				
10. ENTER TOTAL OF QUALIFIED EXPENSES FOR R&D ACTIVITIES IN ALL STATES		NA	NA	NA
11. DIVIDE L 9 BY L 10				
12. MULTIPLY L 1 BY L 11				
13. REGULAR RESEARCH TAX CREDIT (L 12 X 15%)				
TOTAL NEBRASKA R&D CREDIT PER METHOD 2		NA	NA	NA
ENTER LARGER OF NEBRASKA R&D CREDIT PER METHOD 1 OR METHOD 2 - TOTAL NEBRASKA R&D CREDIT AVAILABLE		0	189,387	188,715

TO SCHEDULE                      0828                      0828                      0828

Sch 32A

Source: MTC Schedule 2028A and Pioneer Hi-Bred "All State"  
 Apportionment Schedules Provided by Taxpayer

	12/31/11	12/31/12	12/31/13	12/31/14
<b>Nebraska Property Factor</b>				
Nebraska EOY Property for Pioneer Hi-Bred per "All State" App Factor Schedules from Taxpayer				
Depreciable Assets				
Buildings	16,218,129	17,286,883	18,622,384	19,139,699
Autos and Trucks	314,929	248,227	215,029	235,880
Furniture and Fixtures	1,180,272	1,283,876	1,409,864	1,410,976
Machinery Equipment	76,805,947	80,255,103	81,120,041	86,260,677
Land (1)	1,428,409	1,428,409	1,428,409	1,303,552
Inventory	160,547,404	150,705,226	154,372,003	158,048,581
Total Depreciable Assets	256,495,090	251,207,724	257,167,730	266,399,365
Average Nebraska Property		253,851,407	254,187,727	261,783,548
Personal Property Rents		2,575,169	3,163,886	3,660,619
Capitalized Rents		X 8	X 8	X 8
Nebraska Capitalized Rents		20,601,352	25,311,088	29,284,952
Total Nebraska Property		274,452,759	279,498,815	291,068,500

Everywhere EOY Property for Pioneer Hi-Bred per "All State" App Factor Schedules from Taxpayer				
Depreciable Assets				
Buildings	507,222,558	551,294,831	628,417,241	656,621,322
Autos and Trucks	12,228,956	11,989,371	11,224,650	10,764,637
Furniture and Fixtures	146,618,284	163,168,177	182,746,208	216,339,954
Machinery Equipment	1,060,766,018	1,149,756,371	1,229,724,091	1,292,557,825
Land (1)	81,116,395	81,115,320	82,658,777	82,794,591
Inventory	1,918,553,315	2,142,243,021	2,074,015,851	1,930,263,136
Total Depreciable Assets	3,726,505,526	4,099,567,091	4,208,786,818	4,189,341,465
Average Everywhere Property		3,913,036,309	4,154,176,955	4,199,064,142
Personal Property Rents		56,173,282	61,862,703	72,154,615
Capitalized Rents		X 8	X 8	X 8
Everywhere Capitalized Rents		449,386,256	494,901,624	577,236,920
Total Everywhere Property		4,362,422,565	4,649,078,579	4,776,301,062

Nebraska Property Factor (to Sch 32) 6.29% 6.01% 6.09%

**Nebraska Payroll Factor**

Nebraska Payroll for Pioneer Hi-Bred per "All-State" App Factor Schedules from Taxpayer	30,891,986	33,371,248	33,152,149
Everywhere Payroll for Pioneer Hi-Bred per "All-State" App Factor Schedules from Taxpayer	669,194,879	715,427,133	724,272,822
Nebraska Payroll Factor (to Sch 32)	<u>4.62%</u>	<u>4.66%</u>	<u>4.58%</u>

Note: The Taxpayer only claimed the Nebraska R&D Credit for tax years 2013 and 2014. Therefore, the MTC Auditor only verified the Nebraska R&D Credit for those tax years. (See Schedule 32Ab) During the post-audit conference, it was determined that although the Taxpayer did not claim the Nebraska R&D Credit for 2012, they qualified to receive it. Therefore, additional information was obtained from the Taxpayer to determine the Nebraska Property and Payroll Factors for 2012. Except as noted in footnote #1 below, the figures shown on this workpaper that were used to determine the 2013 and 2014 factors came directly from the MTC Schedule 2028A, as shown on Schedule 32Ab.

**Footnotes**

- The Nebraska and Everywhere EOY Land figures for 2012 do not agree to the MTC Schedule 2028A, as shown on Schedule 32Ab, as the MTC Schedule incorrectly shows the "Construction in Progress" figures as opposed to the correct "Land" amounts. It is noted that these differences do not affect the 2013 Calculated Nebraska Property factor, which the MTC Schedule 2028A shows as 6.0083%, rounded to 6.01%.

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 NEBRASKA RESEARCH & DEVELOPMENT CREDIT - FACTOR CALCULATION  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/12 - 12/31/14

SCHEDULE 2028A

MS 12/18

12/31/12	12/31/13	12/31/14
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NEBRASKA PROPERTY FACTOR:

NEBRASKA PROPERTY FOR PIONEER PER "ALL-STATE"  
 APP FACTOR SCHEDULES FROM TAXPAYER:

	12/31/12	12/31/13	12/31/14
<u>DEPRECIABLE ASSETS:</u>			
BUILDINGS	17,286,883	18,622,384	19,139,699
AUTOS AND TRUCKS	248,227	215,029	235,880
FURNITURE AND FIXTURES	1,283,876	1,409,864	1,410,976
MACHINERY AND EQUIPMENT	80,255,103	81,120,041	86,260,677
LAND	666,884	1,428,409	1,303,552
INVENTORY	150,705,226	154,372,003	158,048,581
TOTAL DEPR ASSETS	250,446,199	257,167,730	266,399,365
AVERAGE NEBRASKA PROPERTY		253,806,965	261,783,548
PERSONAL PROPERTY RENTS		3,163,886	3,660,619
CAPITALIZED RENTS		X 8	X 8
NEBRASKA CAPITALIZED RENTS		25,311,088	29,284,952
TOTAL NEBRASKA PROPERTY		279,118,053	291,068,500

EVERYWHERE PROPERTY PER "ALL-STATE" APP  
 FACTOR SCHEDULE FROM TAXPAYER:

	12/31/12	12/31/13	12/31/14
<u>DEPRECIABLE ASSETS:</u>			
AUTOS AND TRUCKS	11,989,371	11,224,650	10,764,637
MACHINERY AND EQUIPMENT	1,149,756,371	1,229,724,091	1,292,557,825
LAND	73,976,277	82,658,777	82,794,591
INVENTORIES	2,142,243,021	2,074,015,851	1,930,263,136
FURNITURE AND FIXTURES	163,168,177	182,746,208	216,339,954
BUILDINGS	551,294,831	628,417,241	656,621,322
TOTAL DEPR ASSETS	4,092,428,048	4,208,786,818	4,189,341,465
AVERAGE EVERYWHERE PROPERTY		4,150,607,433	4,199,064,142
PERSONAL PROPERTY RENTS		61,862,703	72,154,615
CAPITALIZED RENTS		X 8	X 8
TOTAL CAPITALIZED RENTS		494,901,624	577,236,920
TOTAL EVERYWHERE PROPERTY		4,645,509,057	4,776,301,062
NEBRASKA PROPERTY FACTOR		6.0083%	6.0940%
		TO SCH 2028	TO SCH 2028

NEBRASKA PAYROLL FACTOR:

NEBRASKA PAYROLL FOR PIONEER PER "ALL-STATE"  
 APP FACTOR SCHEDULES FROM TAXPAYER:

		33,371,248	33,152,149
EVERYWHERE PAYROLL FOR PIONEER PER "ALL-STATE" APP FACTOR SCHEDULE FROM TAXPAYER:		715,427,133	724,272,822
NEBRASKA PAYROLL FACTOR		4.6645%	4.5773%
		TO SCH 2028	TO SCH 2028

Sch 32Ab

State of Nebraska - Department of Revenue  
 E.I. du Pont de Nemours & Company & Subs: NE ID #394815  
 Apportionable Income

Prepared By DAB 9/18  
 Reviewed By MS 9/18

Tax Year	Source	2012	2013	2014
Federal Taxable Income - Per MTC Sch 1000	Sch 33A	1,630,385,224	3,294,027,512	3,190,099,629
Add:				
Federal NOL				
Federal CLC - Per MTC Sch 1204	Sch 33B	110,944,345		
Non-NE Govt Interest				
Other				
Other				
Deduct:				
US Govt Interest				
Foreign Dividends - Per MTC Sch 1216	Sch 33C	(469,504,590)	(767,676,789)	(769,854,913)
Foreign Tax Credit Adj.				
Non Apportionable Income - Per MTC Sch 1222	Sch 33D	0	0	0
Other				
Other				
Apportionable Income		<u>1,271,824,979</u>	<u>2,526,350,723</u>	<u>2,420,244,716</u>

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 DOMESTIC COMBINED INCOME  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/12 - 12/31/14

SCHEDULE 1000

MS 10/18

SCH. #	12/31/12	12/31/13	12/31/14
INCOME AS REPORTED	1,598,130,472	3,294,027,512	3,174,615,093
<u>AUDIT ADJUSTMENTS:</u>			
REVERSE INCOME AS REPORTED	(1,598,130,472)	(3,294,027,512)	(3,174,615,093)
COMBINED INCOME COMPUTED PER AUDIT:			
FEDERAL CONSOLIDATED TAXABLE INCOME PER L. 30, FED CONS 1120	1,630,385,224	3,294,027,512	3,190,099,629
UNITARY COMBINED INCOME	1,630,385,224	3,294,027,512	3,190,099,629
TO SCHEDULE	to 33 0828	to 33 0828	to 33 0828

	Source	2012	2013	2014
Audited Federal Taxable Income	Sch 33	1,630,385,224	3,294,027,512	3,190,099,629
Reported Federal Taxable Income on NE Return	Form 1120N, Line 2	1,598,130,472	3,294,027,512	3,174,615,093
Differences		32,254,752	0	15,484,536

**Reconciliation of Differences:**

Capital Gain Net Income per Form 1120 vs Form 1120N	(1)	32,254,752		
Christiana Insurance LLC - FEIN 32-0159923	(2)			15,484,536
Total Reconciled Differences		32,254,752	0	15,484,536
Remaining Differences		0	0	0

**Footnotes**

- (1) The federal return attached to the Nebraska return was not an actual copy of the return filed with the IRS (proforma return). The Capital Gain Net Income per the actual 2012 Form 1120 was \$56,419,680. The Capital Gain Net Income per the federal Form 1120 attached to the Nebraska return was \$24,164,928. The difference is \$32,254,752. The firm had a capital loss carryover from previous years. The change in the capital gain on the returns was an attempt to account for the capital loss carryover. The proper method for accounting for the capital loss carryover is to add back the federal capital loss carryover to apportionable income and then deduct the Nebraska capital loss carryover from Nebraska taxable income (computed on Sch 30A). In the audit, the \$110,944,345 federal capital loss carryover utilized on the 2012 return was added back to federal taxable income on Schedule 33. The Nebraska capital loss carryover was then computed on Schedule 30A and deducted from Nebraska apportioned income on Schedule 30.
- (2) The federal return attached to the Nebraska return was not an actual copy of the return filed with the IRS (proforma return). The Taxpayer did not include the activity of Christiana Insurance LLC, a captive insurance company, in the federal taxable income on their 2014 Nebraska return. Per Nebraska Regulation 24-061, "When an insurance company has income from sources both within and without this state the amount of business income from sources within this state is determined pursuant to the special apportionment formula provided in Reg-24-347." Since Christiana Insurance LLC is not required to have a certificate of authority to sell insurance in Nebraska, it does not have income from sources "within this state" and Reg-22-061 does not apply. Since it is unitary with the group, it must be included in the combined Nebraska return.

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 FEDERAL CAPITAL LOSS CARRYOVER  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/12 - 12/31/14

SCHEDULE 1204  
 MS 10/18

SCH. #	12/31/12	12/31/13	12/31/14
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AS REPORTED 0 0 0

AUDIT ADJUSTMENTS:

REVERSE AMOUNT AS REPORTED 0 0 0

FEDERAL CAPITAL LOSS CARRYOVER  
 PER LINE 6 OF SCH D 110,944,345 0 0

NOTE: FOR YEARS BEG ON OR AFTER 1/1/87,  
 NEBRASKA DOES NOT ALLOW A CAPITAL  
 LOSS CARRYBACK.

FEDERAL CAPITAL LOSS CARRYOVER	110,944,345	0	0
TO SCHEDULE	to 33 1200	1200	1200

Note: See Footnote #1 on Sch 33Aa for additional information regarding this unreported adjustment.

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 FOREIGN DIVIDENDS AND SPECIAL FOREIGN TAX CREDIT DEDUCTION (NEB SCHED II)  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/12 - 12/31/14

SCHEDULE 1216

MS 1-18

SCH. #	12/31/12	12/31/13	12/31/14
AS REPORTED	469,504,590	767,676,789	769,854,913

FOREIGN DIVIDEND DEDUCTION COMPUTATION PER AUDIT:

AS PER CONSOLIDATED FEDERAL 1120, SCHEDULE C:

1. DIVIDENDS FROM FOREIGN CORPORATIONS AND CERTAIN FSC'S SUBJ. TO SEC.245 DED. (F 1120, SCH C, LINES 6&7, COL. A)	0	0	0
2. MINUS SPECIAL DEDUCTION ON LINE 1 AMOUNT (F 1120, SCH C, LINES 6 & 7, COL. C)	0	0	0
3. NET FOREIGN DIVIDENDS SUBJECT TO SEC. 245 DEDUCTION INCLUDED IN FED. TAXABLE INCOME (LINE 1 - LINE 2)	0	0	0
4. OTHER DIVIDENDS FROM FOREIGN CORPORATIONS (F 1120, SCH C, L-13, COL A)	106,532,742	210,745,672	140,075,439
5. INCOME FROM CFCS UNDER SUBPART F (F 1120, SCH C, LINE 14 COL A)	170,690,499	228,680,244	306,289,098
6. FOREIGN DIV. GROSS UP (IRC SEC 78) (F1120, SCH C, LINE 15, COL A)	192,281,349	328,250,873	323,490,376
TOTAL FOREIGN DIVIDEND DEDUCTION	469,504,590	767,676,789	769,854,913

FOREIGN TAX CREDIT DEDUCTION COMPUTATION:

THIS DEDUCTION IS ONLY TO BE CLAIMED WHEN A CORPORATION SUBJECT TO THE IRC IS TAXED BY A FOREIGN COUNTRY, OR ONE OF ITS POLITICAL SUBDIVISIONS, AT A RATE IN EXCESS OF THE MAXIMUM FEDERAL CORPORATE TAX RATE. THE TAXPAYER DID NOT CLAIM ANY SUCH FOREIGN INCOME.

12. TOTAL FOR DIV & FOR TAX CRED DEDUCTION	469,504,590	767,676,789	769,854,913
TO SCHEDULE	to 33 1200	to 33 1200	to 33 1200

Sch 33C

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 OTHER DEDUCTIONS  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/12 - 12/31/14

SCHEDULE 1222

MS 10/18

SCH. #	12/31/12	12/31/13	12/31/14
<b>OTHER DEDUCTIONS AS REPORTED:</b>			
GAIN ON SALE OF DUPONT NANOMATERIALS	131,933,025	0	0
GAIN ON SALE OF SALVAGE ASSETS	14,305,018	11,360,582	7,704,813
LOSS ON SALE OF BUILDING MEDIA	(2,813,286)	0	0
ROYALTIES	3,900,519	3,052,295	2,650,347
PARTNERSHIP INCOME	138,702,307	94,821,607	73,610,614
GAIN ON SALE OF VELISTA	NA	1,300,000	1,000,000
GAIN ON SALE OF STONETECH	NA	NA	8,884,023
NONBUSINESS INCOME EXPENSES	(6,637,442)	(5,007,211)	(3,730,598)
<b>AUDIT ADJUSTMENTS:</b>			
REVERSE AMOUNTS AS REPORTED	0	0	0
<b>NONBUSINESS INCOME AMOUNTS DENIED:</b>			
GAIN ON SALE OF DUPONT NANOMATERIALS	(131,933,025)	NA	NA
GAIN ON SALE OF SALVAGE ASSETS	(14,305,018)	(11,360,582)	(7,704,813)
LOSS ON SALE OF BUILDING MEDIA	2,813,286	NA	NA
ROYALTIES	(3,900,519)	(3,052,295)	(2,650,347)
PARTNERSHIP INCOME	(138,702,307)	(94,821,607)	(73,610,614)
GAIN ON SALE OF VELISTA	NA	(1,300,000)	(1,000,000)
GAIN ON SALE OF STONETECH	NA	NA	(8,884,023)
NONBUSINESS INCOME EXPENSES	6,637,442	5,007,211	3,730,598
<b>TOTAL OTHER DEDUCTIONS PER AUDIT</b>			
	0	0	0
	to 33	to 33	to 33
TO SCHEDULE	1200	1200	1200

Note: It is the Department's position that all investment activity is part of the treasury functions of the unitary business and does not qualify as allocable, non-apportionable income. Therefore, all income reported as allocable, non-apportionable income was disallowed in the audit.

State of Nebraska - Department of Revenue  
 E.I. du Pont de Nemours & Company & Subs: NE ID #394815  
 Sales Factor

Prepared By DAB 9/18  
 Reviewed By M.S. 10/18

Source:

Tax Year	Source	2012	2013	2014
<b>Numerator:</b>				
Audited Sales Numerator - Per MTC Sch 1428.1, Pg 1	Sch 34A, Pg 1	575,326,529		
Audited Sales Numerator - Per MTC Sch 1428.2, Pg 1	Sch 34A, Pg 3		645,709,526	
Audited Sales Numerator - Per MTC Sch 1428.3, Pg 1	Sch 34A, Pg 5			658,636,686
Total		<u>575,326,529</u>	<u>645,709,526</u>	<u>658,636,686</u>
<b>Denominator:</b>				
Audited Combined Sales Denominator - Per MTC Sch 1760	Sch 34B	24,814,458,937	26,419,483,107	24,556,394,202
Less: Exchange Gains Realized on FECs and Exchange Gain/Loss on PTI included in MTC Denominator	Sch 34Ba			(829,193,582)
Total		<u>24,814,458,937</u>	<u>26,419,483,107</u>	<u>23,727,200,620</u>
Apportionment Factor		<u>2.3185%</u>	<u>2.4441%</u>	<u>2.7759%</u>



11/17/12

SCH #	POWDER COATINGS 76-0396214	FINNSUGAR 36-2833407	HOEGEMEYER 47-0487956	DIOXIDE 22-2817151	PIONEER 51-0391677	GENENCOR 22-2332007	PHI FIN SERV 42-1360834	PHI INS SERV 42-1296617
<u>INSTATE REVENUES</u>								
AS REPORTED	1,838,450	2,981,178	16,757,304	519,000	459,036,287	15,738,485	0	62,788
<u>AUDIT ADJUSTMENTS:</u>								
REVERSE AMOUNT REPORTED	(1,838,450)	(2,981,178)	(16,757,304)	(519,000)	(459,036,287)	(15,738,485)	0	(62,788)
ADD IN-STATE REVENUE FROM T/PS "ALL-STATE" APPORTIONMENT SCHEDULES:								
GROSS SALES	1,838,450	2,981,178	16,496,759	519,000	458,760,578	15,738,485	0	62,788
OTHER INCOME			116,886		129,445			
ROYALTY INCOME			0		0			
INTEREST INCOME			115,279		146,264			
GROSS RECEIPTS FROM SALE OF TANGIBLE PROPERTY			28,380		0			
<hr/>								
TOTAL IN STATE REVENUES	1,838,450	2,981,178	16,757,304	519,000	459,036,287	15,738,485	0	62,788
EVERYWHERE REVENUES	1760	24,814,458,937	24,814,458,937	24,814,458,937	24,814,458,937	24,814,458,937	24,814,458,937	24,814,458,937
APPORTIONMENT PERCENTAGE	0.0074%	0.0120%	0.0675%	0.0021%	1.8499%	0.0634%	0.0000%	0.0003%
TO SCHEDULE	0828	0828	0828	0828	0828	0828	0828	0828

Sch 347 Pg 2

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 APPORTIONMENT FORMULA - SINGLE SALES FACTOR  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/13

SCHEDULE 1428.2  
 PAGE 1 OF 2  
 MS 10/15

SCH #	TOTAL ALL REPORTING COMPANIES	DU PONT 51-0014090	AGVENTURE 35-1583753	COASTAL 54-1381937	DANISCO US 16-1362385	DANISCO USA 43-1052363	AUTHENTICATION 13-3802468
<u>INSTATE REVENUES</u>	639,863,791	48,962,732	11,689,786	128,055	17,336,847	4,409,484	0
AS REPORTED	0						
<u>AUDIT ADJUSTMENTS:</u>							
REVERSE AMOUNT REPORTED		(48,962,732)	(11,689,786)	(128,055)	(17,336,847)	(4,409,484)	0
ADD IN-STATE REVENUE FROM T/PS "ALL-STATE" APPORTIONMENT SCHEDULES:							
GROSS SALES		54,618,028	11,689,786	128,055	16,430,725	4,409,484	0
OTHER INCOME		207,289			500,058		
ROYALTY INCOME					406,064		
INTEREST INCOME							
GROSS RECEIPTS FROM SALE OF TANGIBLE PROPERTY							
TOTAL IN STATE REVENUES	645,709,526 to 34	54,825,317	11,689,786	128,055	17,336,847	4,409,484	0
EVERYWHERE REVENUES	1760 26,419,483,107	26,419,483,107	26,419,483,107	26,419,483,107	26,419,483,107	26,419,483,107	26,419,483,107
APPORTIONMENT PERCENTAGE		2.4441%	0.2075%	0.0442%	0.0005%	0.0656%	0.0167%
TO SCHEDULE		0828	0828	0828	0828	0828	0828

Sch 34A Pg 3

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 APPORTIONMENT FORMULA - SINGLE SALES FACTOR  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/13

SCHEDULE 1428.2  
 PAGE 2 OF 2  
 NLS 12/18

SCH #	POWDER COATINGS 76-0396214	FINNSUGAR 36-2833407	HOEGEMEYER 47-0487956	DIOXCIDE 22-2817151	PIONEER 51-0391677	GENENCOR 22-2332007	PHI FIN SERV 42-1360834	PHI INS SERV 42-1296617
<u>INSTATE REVENUES</u>	129,097	2,964,331	20,395,696	224,521	522,337,406	11,226,385	0	59,451
AS REPORTED								
<u>AUDIT ADJUSTMENTS:</u>								
REVERSE AMOUNT REPORTED	(129,097)	(2,964,331)	(20,395,696)	(224,521)	(522,337,406)	(11,226,385)	0	(59,451)
ADD IN-STATE REVENUE FROM T/PS "ALL-STATE" APPORTIONMENT SCHEDULES:								
GROSS SALES	129,097	2,964,331	20,148,002	224,521	522,175,961	11,226,385	0	
OTHER INCOME			138,445		116,198			59,451
ROYALTY INCOME								
INTEREST INCOME			92,399		45,247			
GROSS RECEIPTS FROM SALE OF TANGIBLE PROPERTY								
TOTAL IN STATE REVENUES	129,097	2,964,331	20,378,846	224,521	522,337,406	11,226,385	0	59,451
EVERYWHERE REVENUES	1760	26,419,483,107	26,419,483,107	26,419,483,107	26,419,483,107	26,419,483,107	26,419,483,107	26,419,483,107
APPORTIONMENT PERCENTAGE	0.0005%	0.0112%	0.0771%	0.0008%	1.9771%	0.0425%	0.0000%	0.0002%
TO SCHEDULE	0828	0828	0828	0828	0828	0828	0828	0828

Sch 34A Pg 4

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 APPORTIONMENT FORMULA - SINGLE SALES FACTOR  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/14

*W.S. 15/18*

SCH #	TOTAL ALL REPORTING COMPANIES	DU PONT 51-0014090	AGVENTURE 35-1583753	COASTAL 54-1381937	DANISCO US 16-1362385	DANISCO USA 43-1052363	AUTHENTICATION 13-3802468
<u>INSTATE REVENUES</u>							
	AS REPORTED	610,494,242	46,970,175	11,035,006	0	0	0
<u>AUDIT ADJUSTMENTS:</u>							
	REVERSE AMOUNT REPORTED		(46,970,175)	(11,035,006)	0	0	0
ADD IN-STATE REVENUE FROM T/PS "ALL-STATE" APPORTIONMENT SCHEDULES:							
	GROSS SALES		50,336,598	11,035,006	74,956	12,971,525	4,491,750
	OTHER INCOME		1,044,492			217,006	
	ROYALTY INCOME					889,610	
	INTEREST INCOME						
	GROSS RECEIPTS FROM SALE OF TANGIBLE PROPERTY						
	TOTAL IN STATE REVENUES	658,636,686 <i>to 34</i>	51,381,090	11,035,006	74,956	14,078,141	4,491,750
	EVERYWHERE REVENUES	1760 24,556,394,202	24,556,394,202	24,556,394,202	24,556,394,202	24,556,394,202	24,556,394,202
	APPORTIONMENT PERCENTAGE	2.6821%	0.2092%	0.0449%	0.0003%	0.0573%	0.0183%
	TO SCHEDULE	0828	0828	0828	0828	0828	0828

Sch 34A Pg 5

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 APPORTIONMENT FORMULA - SINGLE SALES FACTOR  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/14

SCHEDULE 1428.3  
 PAGE 2 OF 2  
*MNS 10/18*

SCH #	POWDER COATINGS 76-0396214	FINNSUGAR 36-2833407	HOEGEMEYER 47-0487956	DIOXCIDE 22-2817151	PIONEER 51-0391677	GENENCOR 22-2332007	PHI FIN SERV 42-1360834	PHI INS SERV 42-1296617	
<u>INSTATE REVENUES</u>									
AS REPORTED	0	0	20,920,390	217,610	531,290,168	0	0	60,893	
<u>AUDIT ADJUSTMENTS:</u>									
REVERSE AMOUNT REPORTED	0	0	(20,920,390)	(217,610)	(531,290,168)	0	0	(60,893)	
ADD IN-STATE REVENUE FROM T/PS "ALL-STATE" APPORTIONMENT SCHEDULES:									
GROSS SALES	NA	3,129,758	20,765,234	217,610	530,606,376	15,940,790			
OTHER INCOME			54,289		LOSS			60,893	
ROYALTY INCOME									
INTEREST INCOME			100,867		119,855		5,969,897		
GROSS RECEIPTS FROM SALE OF TANGIBLE PROPERTY					610,174				
<hr/>									
TOTAL IN STATE REVENUES	0	3,129,758	20,920,390	217,610	531,336,405	15,940,790	5,969,897	60,893	
EVERYWHERE REVENUES	1760	24,556,394,202	24,556,394,202	24,556,394,202	24,556,394,202	24,556,394,202	24,556,394,202	24,556,394,202	
APPORTIONMENT PERCENTAGE		0.0000%	0.0127%	0.0852%	0.0009%	2.1637%	0.0649%	0.0243%	0.0002%
TO SCHEDULE		0828	0828	0828	0828	0828	0828	0828	

SCH 34A Page

	Source	2012	2013	2014
Audited Numerator	Sch 34	575,326,529	645,709,526	658,636,686
Reported Numerator	Form 1120N, Sch I	569,709,550	639,863,791	610,494,242
Differences		5,616,979	5,845,735	48,142,444

**Reconciliation of Differences:**

E.I. du Pont de Nemours & Company - FEIN 51-0014090	(1)	5,616,979	5,862,585	4,410,915
Danisco US Inc - FEIN 16-1362385	(2)			14,078,141
Danisco USA Inc - FEIN 43-1052363	(2)			4,491,750
Genencor International Wisconsin Inc - FEIN 22-2332007	(2)			15,940,790
Coastal Training Technologies Corp - FEIN 54-1381937	(3)			74,956
PHI Financial Services Inc - FEIN 42-1360834	(3)			5,969,897
Finnsugar Bioproducts Inc - FEIN 36-2833407	(4)			3,129,758
Hoegemeyer Hybrids Inc - FEIN 47-0487956	(5)		(16,850)	
Pioneer Hi-Bred International Inc - FEIN 51-0391677	(5)			46,237
Total Reconciled Differences		5,616,979	5,845,735	48,142,444
Remaining Differences		0	0	0

**Footnotes**

- (1) Nebraska sales were reported by the Taxpayer for this company. However, the Taxpayer stated that the reported Nebraska sales did not include partnership activity. As provided by Nebraska Regulation 24-056, when a corporation is a partner in a partnership that is unitary with the group, the sales factor must include the corporation's share of the partnership's sales based on the ownership percentage. The MTC auditor determined that the partnerships were unitary; therefore, the Nebraska partnership sales were also included in the audited numerator.
- (2) No Nebraska sales were reported for these companies for tax year 2014. However, these companies had Nebraska sales per the apportionment workpapers. Pursuant to Nebraska Statute §77-2734.14, for years after 2013, the market-based approach shall be used to source Nebraska sales. The Taxpayer stated that these companies did not have nexus since they did not have property or payroll in Nebraska. In order to determine if these companies had nexus in Nebraska for all audit years, nexus questionnaires were issued to the taxpayer for all three companies. However, the taxpayer never provided the completed questionnaires to the MTC auditor. Since the sales from these companies were included in the Nebraska sales factor for tax years 2012 and 2013, as well as for tax year 2016, and the business activities for these companies did not change, it was determined that these companies have nexus in Nebraska for tax year 2014. Therefore, the Nebraska sales per the "all state" apportionment workpapers for these three companies were included for tax year 2014.
- (3) The taxpayer excluded the sales for these two companies for tax year 2014 saying that these companies did not have nexus as they did not have property or payroll in Nebraska. No additional information was provided concerning these companies. Pursuant to Nebraska Statute §77-2731.14(3) and Nebraska Regulation 24-329, as the services provided by these companies are derived from a buyer within the state, the sales should be sourced to Nebraska. It is further noted that the Nebraska sales for Coastal Training Technologies Corp were included in the Nebraska sales factor for tax years 2012 and 2013, while the Nebraska sales for both Coastal Training Technologies Corp and PHI Financial Services Inc were included in the Nebraska sales factor for tax year 2016. Therefore, the Nebraska sales for these companies were included for tax year 2014.
- (4) No information was provided by the MTC auditor regarding the Taxpayer's exclusion of the Nebraska sales for this company for tax year 2014. However, it was noted that the Nebraska sales were included in the Nebraska sales factor computation for tax years 2012 and 2013, as well as for tax year 2016. Since there was no evidence that the business activities for this company changed during the audit period, the Nebraska sales for this company were included in the audited numerator for tax year 2014.
- (5) Nebraska sales were reported by the Taxpayer for this company. No information was provided by the MTC auditor regarding the reason for the difference. Since the audited difference did not result in a material adjustment to the reported tax due, no further explanation was deemed necessary and the adjustment as made by the MTC auditor was accepted.

E.I. du Pont de Nemours & Company & Subs - NE ID #394815  
 Verification of Sales Factor - Reported Numerators by Company

Prepared By DAB 9/18  
 Reviewed By WMS 10/18

Source: Forms 1120N, Schedules III

Company	FEIN	2012	2013	2014	2015	2016
E.I. du Pont de Nemours & Company	51-0014090	44,070,931	48,962,732	46,970,175	35,377,530	44,386,055
AgVenture Inc	35-1583753	10,208,153	11,689,786	11,035,006	13,284,591	11,117,441
Coastal Training Technologies Corp	54-1381937	151,207	128,055			110,039
Danisco US Inc	16-1362385	14,484,947	17,336,847			11,983,368
Danisco USA Inc	43-1052363	3,860,744	4,409,484			4,468,349
DuPont Authentication Inc	13-3802468	76				
DuPont Powder Coatings USA Inc	76-0396214	1,838,450	129,097			5,977,633
Finnsugar Bioproducts Inc	36-2833407	2,981,178	2,964,331			18,858,804
Hoegemeyer Hybrids Inc	47-0487956	16,757,304	20,395,696	20,920,390	20,361,803	
International Dioxide Inc	22-2817151	519,000	224,521	217,610	33,198	
PHI Financial Services Inc	42-1360834					2,888,745
PHI Insurance Services Inc	42-1296617	62,788	59,451	60,893		
Pioneer Hi-Bred International Inc	51-0391677	459,036,287	522,337,406	531,290,168	534,063,857	538,717,883
Terral Seed Inc	72-0456095				182,122	394,871
Genencor International Wisconsin Inc	22-2332007	15,738,485	11,226,385			15,358,274
Mapshots Inc	58-2511122					18,361
<b>Total</b>		<b>569,709,550</b>	<b>639,863,791</b>	<b>610,494,242</b>	<b>603,303,101</b>	<b>654,279,823</b>
<b>Reported NE Sales per Sch III</b>		<b>569,709,550</b>	<b>639,863,791</b>	<b>610,494,242</b>	<b>603,303,101</b>	<b>654,279,823</b>
<b>Difference</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Note: Highlighted years appear to have potential unreported Nebraska sales.**

Purpose: Informational Only - To be used in the examination of the Nebraska sales to be included in the audited numerator.

MULTISTATE TAX COMMISSION  
 INCOME TAX AUDIT  
 STATE OF: NEBRASKA  
 COMBINED REVENUE DENOMINATOR  
 E.I. DU PONT DE NEMOURS AND COMPANY  
 12/31/12 - 12/31/14

SCHEDULE 1760

MS 19/18

SCH. #	12/31/12	12/31/13	12/31/14
DENOMINATOR AS REPORTED	88,704,139,687	103,321,837,350	88,031,768,716
DOMESTIC COMBINED SALES DENOMINATOR AS DETERMINED PER AUDIT:			
FROM FEDERAL CONSOLIDATED 1120:			
GROSS SALES	23,726,580,252	22,990,053,243	21,954,990,012
OTHER INCOME:			
GROSS PROCEEDS - FECS	47,558,142,415	64,622,559,835	64,607,697,993
GROSS PROCEEDS - TIME DEPOSITS	17,934,000,000	12,570,000,000	13,230,000,670
OTHER INCOME	1,011,766,684	1,207,877,837	1,860,023,634
RENTAL INCOME	12,737,026	21,099,697	16,506,619
ROYALTY INCOME	502,491,658	499,111,727	456,317,605
INTEREST INCOME	362,132,845	360,978,025	353,772,680
GROSS RECEIPTS FROM SALE OF TANGIBLE PROPERTY	334,178,390	2,194,499,532	916,474,825
LESS:			
INTERCOMPANY ELIMINATIONS	(808,334,500)	(808,721,357)	(748,518,443)
EXCLUSION OF P'SHIP INCOME IN OTHER INCOME	(327,093,418)	(45,415,597)	(253,172,730)
<u>AUDIT ADJUSTMENTS:</u>			
EXCLUSION OF GROSS PROCEEDS - FECS	(47,558,142,415)	(64,622,559,835)	(64,607,697,993)
EXCLUSION OF GROSS PROCEEDS - TIME DEPOSITS	(17,934,000,000)	(12,570,000,000)	(13,230,000,670)
TOTAL COMBINED REVENUE DENOMINATOR	24,814,458,937	26,419,483,107	24,556,394,202
TO SCHEDULE	to 34 1428	to 34 1428	to 34 1428

Sch 34B

E.I. du Pont de Nemours & Company & Subs - NE ID #394815  
 Additional Other Income Excluded from Factor Computation for 2014 -  
 Exchange Gains Realized on FECs (Forward Exchange Contracts)  
 and Exchange Gain/Loss on PTI (Previously Tax Income)

Prepared By DAB 10/18  
 Reviewed By JMS 10/18

Source: Form 1120, Other Income Statements #14 thru 20, Taxpayer's  
 Apportionment Schedules and Taxpayer's 2014 Annual Report

Company	Additional Other Income Excluded from Factor Computation		
	Exchange Gains Realized on FECs	Exchange Gain/Loss on PTI	Total
E.I. du Pont de Nemours and Company	773,910,244	(165,384)	773,744,860
Agtech Products, Inc.	128		128
Belco Technologies Corporation	38,578		38,578
Christiana Insurance LLC	24,543		24,543
Danisco US, Inc.	339,106		339,106
Danisco USA, Inc.	532,944		532,944
DuPont Chemical and Energy Operations, Inc.	922,034	3,171,967	4,094,001
DuPont China, Ltd.	92,723		92,723
DuPont Textiles & Interiors Delaware, Inc.	40,051	(157,802)	(117,751)
EKC Technology, Inc.	158,806		158,806
DuPont Far East, Inc.	245,384		245,384
DuPont Operations, Inc.	45,848,706		45,848,706
Pioneer Overseas Corporation		4,675,810	4,675,810
Frist Chemical Corporation	1,735		1,735
The Chemours Company North America, Inc.	96,707	(582,698)	(485,991)
<b>Totals</b>	<b>822,251,689</b>	<b>6,941,893</b>	<b>829,193,582</b>

to 34

Note: An examination of the Taxpayer's Annual Report for 2014 revealed that the taxpayer realized significant gains from foreign currency exchange (hedging) contracts. Per review of the Form 1120 Other Income Supporting Statements and the Taxpayer's Apportionment Schedules, it was determined that the reported "Exchange Gains Realized" on FECs (Forward Exchange Contracts) and "Exchange Gain/Loss on PTI" (Previously Taxed Income) per the Form 1120 were included in the Taxpayer's Apportionment Schedules. These schedules were used by the MTC Auditor to determine the total combined revenue denominator shown on **Schedule 34B**. As noted on **Schedule 34B**, the only adjustments made by the MTC Auditor to the Taxpayer's Apportionment Schedules for hedging transactions were for the **Gross Proceeds** from the FECs and Time Deposits. As provided by Nebraska Regulation 24-311.01A(3), amounts received from hedging transactions involving intangible assets, as well as net gains from marketable securities held for investment, are to be excluded from the factor starting in tax year 2014. Therefore, the Exchange Gains Realized and Exchange Gain/Loss on PTI, as reported on the Form 1120, Line 10, were excluded from the factor computation for 2014.

	Source	2012	2013	2014
Audited Denominator	Sch 34	24,814,458,937	26,419,483,107	23,727,200,620
Reported Denominator	Form 1120N, Sch I	88,704,139,687	103,321,837,350	88,031,768,716
Differences		<u>(63,889,680,750)</u>	<u>(76,902,354,243)</u>	<u>(64,304,568,096)</u>
<b>Reconciliation of Differences:</b>				
Exclusion of Gross Proceeds from FECs (Forward Exchange Contracts) included in Other Income on Taxpayer's Apportionment Schedules	(1)	(47,558,142,415)	(64,622,559,835)	(64,607,697,993)
Exclusion of Gross Proceeds from Time Deposits included in Other Income on Taxpayer's Apportionment Schedules	(1)	(17,934,000,000)	(12,570,000,000)	(13,230,000,670)
Exclusion of Exchange Gains Realized on FECs and Exchange Gain/Loss on PTI included in Other Income on Taxpayer's Apportionment Schedules	(2)			(829,193,582)
Gross Receipts from Sales of Tangible Property per Taxpayer's Apportionment Schedules vs Form 1120N, Sch I	(3)	207,368,454	11,514,438	13,283,401,405
Remaining Differences	(4)	1,395,093,211	278,691,154	1,078,922,744
Total Reconciled Differences		<u>(63,889,680,750)</u>	<u>(76,902,354,243)</u>	<u>(64,304,568,096)</u>
Remaining Differences		<u>0</u>	<u>0</u>	<u>0</u>

Note: The MTC auditor determined the "everywhere" sales from the Taxpayer's apportionment schedules, which the auditor materially reconciled to the consolidated federal returns. The MTC auditor noted that the apportionment schedules also included partnership flow through amounts. While adjustments were made for partnership income and intercompany sales, the most notable adjustments made to the apportionment schedules were for gross proceeds from Forward Exchange Contracts (FECs) and Time Deposits.

**Footnotes**

- (1) As noted by the MTC Auditor on Schedule 34B, the Taxpayer's apportionment schedules included gross proceeds from FECs (Forward Exchange Contracts) and Time Deposits. According to the MTC auditor, these amounts included the gross amounts that are received from these intangible assets. The taxpayer stated the gains for the FECs were included in the "other income" reported on Form 1120, Line 10. It was determined that these gain amounts were included in the reported denominators for all years.
- (2) As noted on Schedule 34Ba; the Taxpayer's apportionment schedules included "exchange gains realized" and "exchange gain/loss on PTI" (previously taxed income) from hedging transactions. As provided by Nebraska Regulation 24-311.01A(3), amounts received from the hedging transactions involving intangible assets, as well as net gains from marketable securities held for investment, are to be excluded from the factor starting in tax year 2014. It is noted that MTC Auditor did not make adjustments for these amounts.
- (3) Material differences were noted in the gross receipts from the sales to tangible property as determined by the MTC auditor per the Taxpayer's apportionment schedules versus the amounts included in the reported factor. This was particularly true for tax year 2014 in which the MTC Auditor determined the gross receipts as \$916,474,825 versus the \$<12,366,926,580> included in the reported denominator.
- (4) The remaining differences were determined to be primarily due to the MTC auditor including the sales from the unitary partnerships in the audited denominator rather than the income from the partnerships.

	2012	2013	2014	Total
<b><u>Tax Effect of Audit Adjustments</u></b>				
Factor Changes	1,664,960	3,600,477	3,936,175	9,201,612
Disallowed, Allocable Nonapportionable Income	140,153	51,040	48,811	240,004
Incorrect Reporting of 2011 Federal Capital Loss Carryover	16,267			16,267
Unreported Activity for Christiana Insurance LLC			8,387	8,387
Adjustments to Nebraska Refundable Research & Development Credits	(220,519)	(98,627)	(1)	(319,147)
<b>Total Additional Tax Due</b>	<b>1,600,861</b>	<b>3,552,890</b>	<b>3,993,372</b>	<b>9,147,123</b>

**Final Audit Results vs MTC Audit Adjustments**

Final Audit Results	1,600,861	3,552,890	3,993,372	9,147,123
MTC Audit Results	1,876,989	3,552,950	3,816,297	9,246,236
<b>Differences</b>	<b>(276,128)</b>	<b>(60)</b>	<b>177,075</b>	<b>(99,113)</b>

**Reconciliation of Differences:**

Unclaimed NE R&D Credit Allowed for 2012	(220,519)			(220,519)
Exclusion of Exchange Gains/Losses from Factor for 2014			177,302	177,302
Allowance of Nebraska Capital Loss Carryover from 2011	(55,568)			(55,568)
Rounding Differences in Factor	(13)	68	(74)	(19)
MTC Audit Used Incorrect Previously Paid Tax	(27)			(27)
Rounding Differences in NE R&D Credit Calculation		(128)	(153)	(281)
Immaterial Rounding Difference	(1)			(1)
<b>Total Reconciled Differences</b>	<b>(276,128)</b>	<b>(60)</b>	<b>177,075</b>	<b>(99,113)</b>
<b>Remaining Differences</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>