



**Florida Department of Revenue**  
*Technical Assistance and Dispute Resolution*

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

**QUESTION:** How should the taxpayer source its income from the types of services it provides?

**ANSWER:** The taxpayer should source its income from the types of services it provides to the location of the customer to which the services are provided, on a market basis.

March 5, 2021

XXX  
XXX  
XXX  
XXX

Re: Technical Assistance Advisement 21C1-010  
Request for Sales Sourcing Guidance  
Section 220.15, F.S.  
Rule 12C-1.0155, F.A.C.  
XXX ("the taxpayer")  
FEIN: XXX

Dear XXX:

This is in response to your request dated XXX, for a Technical Assistance Advisement ("TAA") pursuant to s. 213.22, F.S., and Rule Chapter 12-11, F.A.C., regarding guidance on the sourcing of sales. An examination of your letter has established that you have complied with the statutory and regulatory requirements for issuance of a TAA. Therefore, the Department is hereby granting your request for a TAA.

**FACTS SUPPLIED BY TAXPAYER**

The taxpayer is a corporation headquartered in XXX, that provides asset management services globally to pension funds, large institutions, and individuals. The asset services it provides cover four business segments as follows:

**Real Estate**

Real Estate targets a broad range of real estate and real estate related investments in

logistics, rental housing, office, hospitality, and retail properties around the world, as well as a variety of real estate operating companies.

### Private Equity

Private Equity generally invests in corporate equity and other private businesses around the globe.

### Hedge Fund Solutions

Hedge Fund Solutions manages investments in hedge funds, including investment platforms that seed new hedge fund businesses, purchase minority interests in more established general partners and management companies of funds, invest in special situations opportunities, create alternative solutions in the form of daily liquidity products, and invest directly.

### Credit

Credit's portfolio primarily consists of loans and securities of non-investment grade companies spread across the capital structure including senior debt, subordinated debt, preferred stock, and common equity.

The employees who provide asset management services are responsible for raising capital from investors, and selecting, evaluating, underwriting, researching, negotiating, executing, managing and exiting investments on behalf of its clients.

In exchange for asset management services, the taxpayer receives "asset management receipts" comprised of **management fees** paid by the customer to whom the services are provided, on a regular basis (usually quarterly), as a percentage of assets under management; **incentive fees**, usually paid annually, for achieving minimum levels of return; **performance allocations**, commonly known as "carried interest," which are an allocation of up to 20 percent of the net realized income and gains generated by a fund; and **advisory and transaction fees** that are received for consummation of a fund's transactions or for various advisory services.

The taxpayer is planning to open an office in XXX that will initially provide information technology services to its global operations. However, the operations of the XXX office may subsequently be expanded to include management services as discussed above, which would result in income in the form of "asset management receipts," as described above.

### ISSUE

The taxpayer is requesting guidance on the proper classification of its business and the sourcing of income derived from the asset management services it offers, for purposes of computing its Florida sales factor.

**LAW**

Paragraph 220.03(1)(m), F.S., states:

“Includes” or “including,” when used in a definition contained in this code, shall not be deemed to exclude other things otherwise within the meaning of the term defined.

Section 220.15, F.S., states, in part:

(5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

(a) As used in this subsection, the term “sales” means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities. However:

1. Rental income is included in the term if a significant portion of the taxpayer’s business consists of leasing or renting real or tangible personal property; and
2. Royalty income is included in the term if a significant portion of the taxpayer’s business consists of dealing in or with the production, exploration, or development of minerals.

\* \* \*

(c) Sales of a financial organization, including, but not limited to, banking and savings institutions, investment companies, real estate investment trusts, and brokerage companies, occur in this state if derived from:

1. Fees, commissions, or other compensation for financial services rendered within this state;
2. Gross profits from trading in stocks, bonds, or other securities managed within this state;
3. Interest received within this state, other than interest from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located without this state, and dividends received within this state;
4. Interest charged to customers at places of business maintained within this state for carrying debit balances of margin accounts, without deduction of any costs incurred in carrying such accounts;

5. Interest, fees, commissions, or other charges or gains from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located in this state or from installment sale agreements originally executed by a taxpayer or the taxpayer's agent to sell real or tangible personal property located in this state;
6. Rents from real or tangible personal property located in this state; or
7. Any other gross income, including other interest, resulting from the operation as a financial organization within this state.

In computing the amounts under this paragraph, any amount received by a member of an affiliated group (determined under s. 1504(a) of the Internal Revenue Code, but without reference to whether any such corporation is an "includable corporation" under s. 1504(b) of the Internal Revenue Code) from another member of such group shall be included only to the extent such amount exceeds expenses of the recipient directly related thereto.

(6) The term "financial organization," as used in this section, includes any bank, trust company, savings bank, industrial bank, land bank, safe-deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, or investment company.

\* \* \*

### **ANALYSIS**

Based on the provisions of paragraph 220.15(5)(c), F.S., and subsection 220.15(6), F.S., the activities of the taxpayer are those of a financial organization. As the taxpayer is to be treated as a financial organization, it should compute its sales factor as directed by paragraph 220.15(5)(c), F.S., sourcing its income from asset management services to the location of the customer to whom such services are provided.

### **CONCLUSION**

The taxpayer is to be treated as a financial organization and should compute its sales factor as directed by paragraph 220.15(5)(c), F.S., sourcing its income from asset management services to the location of the customer to whom such services are provided. To the extent asset management services are provided to customers located in Florida, the income would appear in both the numerator and the denominator of the taxpayer's Florida sales factor.

Additionally, the taxpayer's property factor should be computed as directed for financial organizations by subsection 220.15(5), F.S.

This response constitutes a Technical Assistance Advisement under s. 213.22, F.S., which is binding on the Department only under the facts and circumstances described in the request for

this advice as specified in s. 213.22, F.S. Our response is predicated on those facts and the specific situation summarized above. You are advised that subsequent statutory or administrative rule changes, or judicial interpretations of the statutes or rules, upon which this advice is based, may subject similar future transactions to a different treatment than expressed in this response.

You are further advised that this response, your request and related documents are public records under Chapter 119, F.S., which are subject to disclosure to the public under the conditions of s. 213.22, F.S. Your name, address, and any other details, which might lead to identification of the taxpayer, must be deleted before disclosure. In an effort to protect the confidentiality of such information, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, backup material and response within fifteen days of the date of this advisement.

Sincerely,

*Suzanne C. Paul*

Suzanne C. Paul  
Tax Law Specialist  
Technical Assistance and Dispute Resolution

cc: XXX  
XXX  
XXX  
XXX