



Florida Department of Revenue
Technical Assistance and Dispute Resolution

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

QUESTION: When computing Taxpayer's sales factor for purposes of computing its Florida Corporate Income Tax, how should Taxpayer source the [REDACTED] it receives as a flow through for services performed both inside and outside Florida?

ANSWER: Based on the facts provided and for purposes of computing its Florida Corporate Income Tax sales factor that flows through from Taxpayer's Florida partnership information return, the Department concurs that Taxpayer should source its [REDACTED] to Florida to the extent of [REDACTED] and other [REDACTED] that are located in Florida.

October 3, 2023

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via email to: [REDACTED]

Re: Technical Assistance Advisement – TAA #: 23C1-012
Corporate Income Tax – Appportionment – Sales Factor
[REDACTED] ("Taxpayer")
Section 220.15, Florida Statutes (F.S.)
Rule 12C-1.0155(3), Florida Administrative Code (F.A.C.)
FEIN: [REDACTED]
BP#: [REDACTED]

Dear [REDACTED]

This is in response to your letter dated, [REDACTED] requesting this Department's issuance of a Technical Assistance Advisement (TAA) pursuant to Section (s.) 213.22, F.S., and Rule Chapter 12-11 F.A.C., regarding the matter discussed below. Your request has been carefully examined, and the Department finds it to be in compliance with the requisite criteria set forth in Chapter 12-11, F.A.C. This response to your request constitutes a TAA and is issued to you under the authority of s. 213.22, F.S.

ISSUE PRESENTED

When computing Taxpayer’s sales factor for purposes of computing its Florida Corporate Income Tax, how should Taxpayer source the [REDACTED] it receives as a flow through for services performed both inside and outside Florida?

FACTS SUPPLIED BY TAXPAYER

Taxpayer is treated as corporation for federal income tax purposes and files a Florida Corporate Income Tax return [REDACTED]. Taxpayer’s sole activity is the majority ownership in [REDACTED] (“[REDACTED]”), and [REDACTED] sole activity is the majority ownership in [REDACTED] (“[REDACTED]”), both of which are treated as partnerships for federal income tax purposes and file partnership information returns in Florida. Taxpayer is requesting advice on how to source fees earned from the services [REDACTED] provides for the purposes of computing its Florida Corporate Income Tax sales factor that flows through from [REDACTED] Florida partnership information return.

[REDACTED] is organized under the laws of [REDACTED] and is registered [as] [REDACTED] [REDACTED] [REDACTED] (“[REDACTED]”). As an [REDACTED], [REDACTED] receives fees for performing [REDACTED] for [REDACTED] (“[REDACTED]”) and other [REDACTED].

[REDACTED] primary revenue streams are as follows:

1. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
2. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

In return for providing [REDACTED] and [REDACTED], the [REDACTED] pay [REDACTED] a fee (“[REDACTED]”), [REDACTED]
[REDACTED]

These services are performed both [REDACTED]. Currently, [REDACTED]
[REDACTED]
[REDACTED]

LAW AND REGULATIONS

Section 220.15(5), F.S., provides, in pertinent 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:

(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;

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.

Section 220.15(6), F.S., provides that,

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.

Rule 12C-1.0155(3), F.A.C., provides,

- (a) The sales factor for a financial organization includes gross receipts as described in section 220.15(5)(a), F.S. However, the sales factor is expanded by section 220.15(5)(c), F.S., for a financial organization.
- (b) Regular monthly charges for an account maintained in a Florida branch will be deemed to be Florida sales, regardless where the accounting services for the account are performed.

- (c) Gross profits from trading in stocks, bonds, or other securities are considered sales for a financial organization. The gross profits are considered Florida sales if the stocks, bonds, or securities are managed within Florida. The management is deemed to be within Florida if the customer or client is within Florida.
- (d) Interest on loans is included in the sales factor. Interest received within Florida, other than interest from loans secured by mortgages, deeds of trust, or other liens upon real or tangible personal property located outside Florida, is included in the numerator of the factor.
- (e) Dividends are included in the factor. Dividends received within Florida are included in the numerator.
- (f) Where a loan is secured by multiple liens upon real or tangible personal property, part of which is within Florida and part of which is without Florida, the amount of the interest which is included in the numerator of the factor is based on a fraction, the numerator of which is the value of the secured property in Florida, and the denominator of which is the value of the secured property everywhere. The “value of the secured property” will be the fair market value of the property at the time of the loan.

Taxpayer’s position is that [REDACTED] should source its [REDACTED] to the extent a [REDACTED] and other [REDACTED] are located in [REDACTED] for sales factor purposes.

DISCUSSION AND ANALYSIS OF LAW

Subsection 220.15(5)(c), F.S., defines sales of a financial organization, to include, but not limiting to investment companies, occur in this state if derived from fees, commissions, or other compensation for financial services rendered within Florida along with any other gross income resulting from the financial organization’s operation in Florida. Rule 12C-1.0155, F.A.C., describes how the receipts from different types of sales activities are computed, and then provides information on the computation of the Florida portion of those receipts.

As noted in the request, the income from the services provided by [REDACTED], meets the definition of “sales,” provided by s. 220.15(5)(a), F.S., and should be included in the computation of the Florida sales factor.

Rule 12C-1.0155(1)(h), F.A.C., which addresses “Sales of Services,” states that income received for providing services includes the gross receipts from the performance of such services and, to the extent that those services are provided to customers located in Florida, Rule 12C-1.0155(2), F.A.C., directs that the income is to be sourced to Florida and included in the numerator of the sales factor.

The apportionment factor provides a measure of a taxpayer’s business activity in the states in which it does business and serves as a means of attributing income to the states from which the income was derived.

In the case of a flow-through entity (i.e., [REDACTED] whose income flows through to Taxpayer, Taxpayer's portion of the sales factor provided to it by [REDACTED] for inclusion in Taxpayer's own factors should reflect the proper sourcing of the [REDACTED] based on the location of [REDACTED] customers (i.e., [REDACTED] and [REDACTED]).

CONCLUSION

Based on the facts provided and for purposes of computing its Florida Corporate Income Tax sales factor that flows through from [REDACTED] Florida partnership information return, the Department concurs that Taxpayer should source its [REDACTED] to Florida to the extent of [REDACTED] and other [REDACTED].

Bear in mind, Taxpayer must apply Generally Accepted Accounting Principles (GAAP) and the provisions of s. 220.13, F.S. Taxpayer will be required to provide, with its [REDACTED] Florida Corporate Income Tax return, the pro-forma return for the fees earned from the services that [REDACTED] provides.

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 backup documents are public records under Chapter 119, F.S., and are subject to disclosure to the public under the conditions of s. 213.22, F.S. Confidential information must be deleted before public disclosure. In an effort to protect confidentiality, we request you provide the undersigned with an edited copy of your request for Technical Assistance Advisement, the backup material and this response, deleting names, addresses and any other details which might lead to identification of the Taxpayer. Your response should be received by the Department within ten (10) days of the date of this letter.

If you have any further questions regarding this matter and wish to discuss them, you may contact me directly at 850-717-6326.

Kind Regards,

Denise L. Smith

Denise L. Smith, MPM

Tax Law Specialist

Technical Assistance & Dispute Resolution

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

TADR Satisfaction Survey

The Florida Department of Revenue invites you to complete the online TADR Satisfaction Survey to help us identify ways to improve our service to taxpayers. The survey is an opportunity to provide feedback on your recent experience with the Department's office of Technical Assistance and Dispute Resolution (TADR). To access the survey, place the following address in your browser's access bar:

<https://tadr.questionpro.com>

When you open the survey, you'll be asked to enter the following information. This information will enable you to complete and submit the survey.

Notification number: 7000952092

Respondent code: 44

Tax type: Corporate Income Tax

Correspondence type: Technical Assistance

If you need technical assistance accessing the survey, please email Douglas Charity at douglas.charity@floridarevenue.com.

Thank you.