



COLORADO
Department of Revenue
Taxation Division

Office of Tax Policy
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PLR 24-004

May 21, 2024

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

Re: Subtraction of wages disallowed under I.R.C. § 3134(e)

Dear XXXXXXXXXXXX:

You submitted a request for a private letter ruling on behalf of XXXXXXXXXXXX (the “Company”), to the Colorado Department of Revenue (“Department”) pursuant to 1 CCR 201-1, Rule 24-35-103.5. This letter is the Department’s private letter ruling. This ruling is binding on the Department to the extent set forth in 1 CCR 201-1, Rule 24-35-103.5. It cannot be relied upon by any taxpayer other than the taxpayer to whom the ruling is made.

Issue

Whether wages, the deduction of which was disallowed under section 3134(e) of the Internal Revenue Code, may be subtracted from federal taxable income.

Conclusion

Wages, the deduction of which was disallowed under section 3134(e) of the Internal Revenue Code, may be subtracted from federal taxable income.

Background¹

Company is a Colorado S corporation that manages several XXXXXXXXXXXX in Colorado. For the tax years ending December 31, 2020, and December 31, 2021, Company claimed an employee retention credit for employers subject to closure due to COVID-19 under section 3134(a) of the Internal Revenue Code. Pursuant to I.R.C. section 3134(e), Company reduced its federal deduction for wages and salaries by \$XXXXXXXXXX for tax year 2020, and by \$XXXXXXXXXX for tax year 2021 on its federal form 1120-S. This reduction increased Company’s federal taxable income.

¹ Paragraph (4)(b)(ii) of 1 CCR 201-1, Rule 24-35-103.5 requires the request for a private letter ruling to include a statement of facts. This section generally recites the statement of facts provided in the request, which is not an indication that the Department found such facts relevant to its analysis. Some relevant facts may be omitted to ensure confidentiality as required by section 24-35-103.5(5), C.R.S. The terms used in this section to describe the factual background are generally those of the requester.

Discussion

Under the specific circumstances at issue here, Colorado will allow a subtraction for taxpayer of wages that were disallowed for federal tax purposes under IRC Section 3134(e).

Miscellaneous

This ruling is premised on the assumption that Company has completely and accurately disclosed all material facts, that all representations are true and complete, and that Company has otherwise complied with the requirements of section 24-35-103.5, C.R.S., and the rules promulgated pursuant thereto. The Department reserves the right, among others, to independently evaluate Company's facts, representations, and assumptions. The ruling is null and void if any such fact, representation, or assumption is incorrect and has a material bearing on the conclusions reached in this ruling. This ruling is binding on the Department and is subject to modification or revocation, in accordance with 1 CCR 201-1, Rule 24-35-103.5.

Thank you for your request.

Sincerely,

Office of Tax Policy
Colorado Department of Revenue

This ruling cannot be relied upon by any other taxpayer other than the taxpayer to whom the ruling is made.