



COLORADO

Department of Revenue

Taxation Division

Office of Tax Policy
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PLR 26-002

February 17, 2026

XXXXXXXXXX
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Via Electronic Mail: XXXXXXXXXXX

Re: Receipts for Income Apportionment

Dear XXXXXXXXXXX:

You submitted a request for a private letter ruling on behalf of XXXXXXXXXXX (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 gross receipts from CO Partnership's sale of Colorado real estate are included in receipts for the purpose of calculating the apportionment factor that determines Company's Colorado-source apportionable income under section 39-22-303.6, C.R.S.

Conclusion

No, gross receipts from CO Partnership's sale of Colorado real estate are not included in receipts for the purpose of calculating the apportionment factor that determines Company's Colorado-source apportionable income under section 39-22-303.6, C.R.S.

Background¹

Company is a subchapter S corporation, based in XXXXXXXXXXX and wholly owns or has majority interests in several partnerships and other entities. Company files Federal Form 1120-S U.S. Income Tax Return for an S Corporation and Colorado DR 0106 Partnership and S Corporation Tax Return. Profits and losses from its various partnership interests and subsidiary entities are passed through to Company's net income, and its tax return is filed on a unitary basis with these related entities.

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 initial request or in any supplement or amendment thereto, which is not an indication that the Department found such facts relevant to its analysis. Some relevant facts may be redacted or 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.

Company is engaged in a variety of distinct business activities, each conducted through separate entities included in its unitary tax filing. These operations include XXXXXXXXXXXX. Additional income streams also include XXXXXXXXXXXX.

Although Company has engaged in the occasional purchase and sale of real estate, these transactions are infrequent occurrences for all the entities comprising the unitary filing group and are not in the regular course of business.

Company owns greater than 50% of a partnership (“CO Partnership”), thus having a controlling interest and the income from CO Partnership passes through to Company on its subchapter S corporation tax return. CO Partnership’s primary business is the operation of assisted living facilities that provide its residents with medical care, meals, and other day-to-day care.

CO Partnership sold a substantial piece of real property in Colorado to an unrelated buyer, resulting in over \$XXXXXXXXXX in proceeds from the sale, with a net amount of over \$XXXXXXXXXX ultimately received by CO Partnership after paying the mortgage and other closing expenses in XXXXXXXXXXXX of last year, realizing a substantial gain. CO Partnership sold the property because it is discontinuing its operation of the assisted care facility at that location and sought to recover funds for future investment by its majority owner. CO Partnership is in the process of dissolving its business after the sale of this property.

The sale of this real property and subsequent distribution of the net amount received by the Company constituted an extraordinary event for CO Partnership and was not a transaction in the normal course of business. CO Partnership’s primary activities are leasing and managing assisted living facilities; it is not engaged in the regular acquisition or sale of properties. This is consistent with the other entities in the unitary filing group, each of which has its own distinct line of business, and for which the sale of real estate would also be considered an extraordinary event.

CO Partnership will make the election under section 39-22-203(1)(a) to determine the Colorado-source portion of nonresident partners’ distributive shares using the procedure outlined in section 39-22-303.6. In turn, CO Partnership will make the election provided under section 39-22-303.6(8), C.R.S., to treat all of its income as apportionable income.

Discussion

Gross receipts from CO Partnership’s sale of Colorado real estate are not included in receipts for the purpose of calculating the apportionment factor that determines Company’s Colorado-source apportionable income under section 39-22-303.6, C.R.S. Section 39-22-303.6(4)(a), C.R.S., provides that “a taxpayer’s apportionable income shall be apportioned to Colorado by multiplying such apportionable income by a fraction, the numerator of which is the total receipts of the taxpayer in Colorado during the tax period and the denominator of which is the total receipts of the taxpayer everywhere during the tax period.” This fraction is called an “apportionment factor.” In some circumstances, a particular amount may be included in a taxpayer’s apportionable income without also being included in the calculation of the taxpayer’s apportionment factor.²

For Colorado income tax purposes, CO Partnership elects to treat its income as apportionable income under sections 39-22-203(1)(a) and 39-22-303.6(8), C.R.S.³ Pursuant to section 39-22-303.6(4)(a), therefore, CO Partnership’s apportionable income shall be apportioned to Colorado by its apportionment factor.

The gross receipts from CO Partnership’s sale of the Colorado real estate are excluded from the

² 1 CCR 201-2, Rule 39-22-303.6–1, paragraph (1)(I)(ix).

³ Section 39-22-303.6(1)(a)(II)(B), C.R.S.

numerator and denominator of CO Partnership's apportionment factor. Section 39-22-303.6(1)(d), C.R.S., defines receipts as "all gross receipts that are . . . received from transactions and activity in the regular course of the taxpayer's trade or business . . ." ⁴ Though the Colorado real estate at issue is related to the operation of CO Partnership's business, the sale of real estate is not a transaction or activity in the regular course of CO Partnership's regular trade or business. Such transactions are infrequent occurrences for CO Partnership, which primarily operates assisted living facilities. Because the sale of the Colorado real estate was not a transaction or activity in the regular course of CO Partnership's trade or business, the gross receipts from the sale of the Colorado real estate are not receipts under the relevant definition.

The income of an S corporation attributable to this state is determined by apportioning and allocating the S corporation's income pursuant to section 39-22-303.6, C.R.S.⁵ In general, a corporation that holds a partnership interest from which it derives apportionable income must include its share of the partnership's apportionment factor in the corporation's own apportionment factor.⁶ Because the gross receipts from the sale of the Colorado real estate are not included in the CO Partnership's apportionment factor, no share of the gross receipts are included in the calculation of the Company's apportionment factor.

Thus, gross receipts from CO Partnership's sale of Colorado real estate are not included in receipts for the purpose of calculating the apportionment factor that determines Company's Colorado-source apportionable income under section 39-22-303.6, C.R.S.

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.

⁴ Section 39-22-303.6(1)(d), C.R.S.

⁵ Section 39-22-321(1), C.R.S.; 1 CCR 201-2, Rule 39-22-109, paragraph (3)(f)(i).

⁶ See section 39-22-303(11.5)(b)(III)(D), C.R.S.