

Income/Franchise:

California Office of Tax Appeals Holds that Gain from Sale of LLC Interest is Business Income

OTA Case Nos. 220410259, 220410261, 220410262, 220410263 [2024-OTA-142], Cal. Off. of Tax App. (1/23/24). In a case involving an S corporation's gain on the sale of its interest in a limited liability company (LLC), a recently posted California Office of Tax Appeals (OTA) ruling held that because the two entities operated as distributors of similar products and had engaged in a unitary business under the facts, the gain constituted business income subject to apportionment for California income tax purposes under the functional test. In doing so, the OTA explained that the S corporation's control and use of its LLC interest had contributed materially to its production of business income so that the interest was "interwoven into and inseparable" from its unitary business. Moreover, the OTA concluded that because the sale of the LLC interest generated business income for the S corporation, the provisions of California Code of Regulations section 17951-4(f) are triggered to determine the California-sourced amount of each shareholder's pro rata share of the S corporation's gain. Please contact us with any questions.

URL: <https://ota.ca.gov/wp-content/uploads/sites/54/2024/04/Alvaco-Trading-Company-Inc.pdf>

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