

Income/Franchise:

California: Receipts from Sale of Subsidiary Assets Must be Excluded from Sales Factor as Substantial and Occasional Sale

OTA Case No. 220410163 [2024-OTA-217], Cal. Off. of Tax App. (3/8/24). A recently posted California Office of Tax Appeals (OTA) ruling held that a corporate taxpayer's gross receipts from the sale of assets (largely comprised of goodwill) of its subsidiaries to an unrelated third-party must be excluded from its California sales factor denominator pursuant to California Code of Regulations, title 18, section 25137(c)(1)(A) as receipts arising from a substantial and occasional sale. Under the facts, the taxpayer was the parent company of a unitary business that operated car dealerships both within and outside of California for the tax year at issue. The taxpayer had reported the gain on the sale of these assets as business income for the tax year at issue (which was not in dispute) and employed use of California's single sales factor, which included the gross receipts attributable to the sale at issue in the denominator, but not the numerator, to apportion its business income. Agreeing with the California Franchise Tax Board, the OTA concluded that the gross receipts at issue must be entirely excluded from the sales factor as a substantial and occasional sale; furthermore, the OTA denied the taxpayer's request to use alternative apportionment to nonetheless include the gross receipts in the denominator. Please contact us with any questions.

URL: <https://ota.ca.gov/wp-content/uploads/sites/54/2024/05/Worthington-Oil-Gas-Corporation.pdf>

— Valerie Dickerson (Washington, DC)
Partner
Deloitte Tax LLP
vdickerson@deloitte.com

Jairaj Guleria (San Francisco)
Partner
Deloitte Tax LLP
jguleria@deloitte.com

Kathy Freeman (Sacramento)
Managing Director
Deloitte Tax LLP
katfreeman@deloitte.com

Jacob Shin (Los Angeles)
Manager
Deloitte Tax LLP
jacshin@deloitte.com

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