

Income/Franchise:

South Carolina DOR Posts Draft Guidance on Sourcing Receipts from Services

Revenue Ruling #25-x: Sourcing Gross Receipts from Services (Income Tax) [Public Draft], S.C. Dept. of Rev. (3/10/25). The South Carolina Department of Revenue (Department) posted a draft revenue ruling “circulated for public comment” that addresses its current position on the “income-producing activity method” of sourcing gross receipts from services to South Carolina (*i.e.*, including such receipts in the numerator of a taxpayer’s gross receipts factor) for state corporate income tax purposes. The draft guidance includes sections discussing:

URL: <https://dor.sc.gov/resources-site/lawandpolicy/Advisory%20Opinions/PDRR-Sourcing%20DRAFT.pdf>

1. Apportionment, generally;
2. South Carolina’s apportionment statutes;
3. Gross receipts;
4. The determination and sourcing of gross receipts from services, including income-producing activity, under South Carolina law; and
5. Considerations for characterizing certain transactions as services or the use of an intangible.

In doing so, the Department notes that “income-producing activity,” “costs of performance,” and “market sourcing” are distinct concepts, and that it is presently “a party to litigation” related to its sourcing methodology, and therefore, its position may be re-evaluated as that litigation is “resolved by the judicial system.”

According to the draft guidance, “income-producing activity” is the purpose or reason that participants pay to enter a transaction (or combination of transactions) which produces income for the service provider. That is, “income-producing activity is what participants in the transaction(s) providing the taxpayer’s income want in exchange for payment.” The draft guidance also explains that income-producing activity is determined by the substance rather than the form of the transaction(s) related to the activity, considering all relevant facts and circumstances. Moreover, the draft guidance states that if income-producing activity occurs in more than one place, state law “takes a proportional approach” where receipts are considered South Carolina receipts to the extent the income-producing activity is in South Carolina. The Department also explains that “where the taxpayer’s income is generated by transactions that may be plausibly viewed as either using intangibles or providing services, the income will often be sourced to the same state regardless of the characterization under which the facts are analyzed.” Comments on this draft guidance are due by April 8, 2025. Please contact us with any questions.

— Art Tilley (Charlotte)
Managing Director
Deloitte Tax LLP
atilley@deloitte.com

Joe Garrett (Birmingham)
Managing Director
Deloitte Tax LLP
jogarrett@deloitte.com

Meredith Morgan (Charlotte)
Senior Manager
Deloitte Tax LLP
mmorgan@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.