



COLORADO CHAMBER
OF COMMERCE



Attention Tax Council Members:

The Department of Revenue, Division of Taxation, will be holding a rulemaking hearing on several proposed apportionment rules as well as eliminating several that are outdated. Details regarding the proposed rules and rulemaking hearing process are provided below:

Hearing Details:

Date: November 3rd

Time: 10:00 a.m.

**The hearing will be conducted only by phone & video conference.

Participation instructions:

To participate by video conference please send email to: dor_taxrules@state.co.us.

To participate by phone please use the following number: 1- 669-900-6833 / Meeting ID#: 867 3601 5567

Proposed Rules:

Special Rule 9A. Apportionment of Income for Electricity Producers - Prescribes inclusion of certain receipts of electricity producers from hedging transactions in the receipts factor.

Rule 39-22-303.6-1. Apportionment and Allocation Definitions - Adds language to the rule that explains that hedging transactions are excluded from receipts except as provided in Special Rule 9A.

Rule 39-22-303.6-7. Sales Other Than Sales of Tangible Personal Property in Colorado - Adds language to the rule that explains that hedging transactions are excluded from receipts except as provided in Special Rule 9A.

The Department is also proposing a repeal of the following apportionment rules because they applied to tax years prior to January 1, 2009:

- Regulation IV. Colorado Multi-state Compact Tax Regulation – Applicability.
- Regulation IV.1.(a). Business and Nonbusiness Income Defined.
- Regulation IV.1.(b).
- Regulation IV.1.(c). Business and Nonbusiness Income: Application of Definitions.
- Regulation IV.1.(d). Proration of Deductions.
- Regulation IV.2.(a). Definitions.
- Regulation IV.2.(b)(1). Application of Article IV: Apportionment.
- Regulation IV.2.(b)(2). Application of Article IV: Combined Report.
- Regulation IV.2.(b)(3). Application of Article IV: Allocation.
- Regulation IV.2.(c). Consistency and Uniformity in Reporting.
- Regulation IV.3.(a). Taxable in Another State.
- Regulation IV.3.(b). Taxable in Another State: When a Corporation is “Subject to” a Tax under Article IV.3.(1).

- Regulation IV.3.(c). Taxable in Another State: When a State Has Jurisdiction to Subject a Taxpayer to a Net Income Tax.
- Regulation IV.9. Apportionment Formula.
- Regulation IV.15.(a). Sales Factor.
- Regulation IV.15.(b). Sales Factor: Denominator.
- Regulation IV.15.(c). Sales Factor: Numerator.
- Regulation IV.16.(a). Sales Factor: Sales of Tangible Personal Property in this State.
- Regulation IV.16.(b). Sales Factor: Sales of Tangible Personal Property to United States Government in this State.
- Regulation IV.17. Sales Factor: Sales Other than Sales of Tangible Personal Property in this State.
- Regulation IV.18.(c). Special Rules: Sales Factor

You can find the links to these proposed rules at the following link: <https://tax.colorado.gov/tax-rules>. The Department will be accepting accept oral comments during the rule making hearing as well as written comments that can be submitted to dor_taxrules@state.co.us by **November 3rd at 5 p.m.**

Please contact Loren Furman at lfurman@cochamber.com with any questions/concerns regarding this matter.

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