



Attention Tax Council Members:

The CO Department of Revenue, Division of Taxation, is seeking feedback regarding the following new and amended rules:

- [Special Rule 9A. Apportionment of Income for Electricity Producers](#) - The purpose of this new rule is to prescribe the inclusion of certain receipts of electricity producers from hedging transactions in the receipts factor.
- [Rule 39-22-303.6-1. Apportionment and Allocation Definitions](#) The purpose of this amended rule is to add 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](#) The purpose of this amended rule is to add language to the rule that explains that hedging transactions are excluded from receipts except as provided in Special Rule 9A.

The Department is also considering a repeal of some apportionment rules which applied to tax years prior to January 1, 2009. Below are links for the rules the Department is proposing to repeal and the rules it plans to retain:

- [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](#)

The DOR will NOT be holding a stakeholder meeting to discuss the proposed rule changes prior to the formal rulemaking process unless necessary. Feedback can be provided to: dor_taxrules@state.co.us and the deadline for comments is **September 17, 2021**. After reviewing the comments received, DOR will determine whether the draft rules should move forward and whether additional changes are necessary.

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

Thank you!

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