

Title 18, California Code of Regulations
Text of Regulation Section 25137-15 is adopted to read:

25137-15. Apportionment and Allocation of Income of Space Transportation Companies

(a) When a space transportation company derives income from sources both within and without this state, the amount of business income attributable to sources within this state shall be determined pursuant to this regulation.

(b) *Definitions.* As used in this regulation:

(1) "Space transportation company" means a taxpayer that generates more than 50 percent of its gross receipts from the provision of space transportation activity for compensation in a taxable year.

(2) "Space transportation activity" means the movement or attempted movement of people or property, including without limitation, launch vehicles, satellites, payloads, cargo, refuse, or any other property to space.

(3) "Launch" means to move or attempt to move people or property from Earth to space. For purposes of this regulation, "launch" also includes the movement or attempted movement of people or property from space to Earth.

(4) "Launch vehicle" means a conveyance built to place people or property in, or operate in, space.

(5) "Payload" means the people or property placed into a launch vehicle for the purpose of space transportation activity.

(6) "Launch contract" means a binding legal agreement between a taxpayer and an unaffiliated third party to provide space transportation activity.

(7) "Space" means an altitude of 62 statute miles or more above the surface of the Earth.

(8) "Separation" means the geographical point at which a payload physically separates from a launch vehicle.

(9) "Gross receipts" means gross receipts as defined in Revenue and Taxation Code section 25120.

(c) *Apportionment of business income.*

(1) In general. The sales factor of space transportation companies shall be determined in accordance with Revenue and Taxation Code sections 25134 to 25137, inclusive, and the regulations thereunder, except as modified by this regulation.

(2) Sales factor numerator. In determining the numerator of the sales factor of a space transportation company, gross receipts shall be attributed to this state based upon a mileage factor, weighted at 80 percent, and a departure factor, weighted at 20 percent.

(3) Computation of the mileage and departure factors.

(A) Mileage factor. The mileage factor shall be determined by computing the mileage ratio applicable to each launch contract for which the taxpayer recognizes revenue in the taxable year.

1. Mileage ratio numerator. The numerator of the mileage ratio for each launch contract shall be the total projected mileage that all launch vehicles launched or planned to be launched pursuant to that launch contract will travel within this state. If a launch occurs or is planned to occur in this state, the contribution of that launch to the numerator of the mileage ratio shall be 62 statutory miles. If a launch occurs or is planned to occur outside of this state, the contribution of that launch to the numerator of the mileage ratio shall be zero.

2. Mileage ratio denominator. The denominator of the mileage ratio for each launch contract shall be the total mileage that all launch vehicles launched pursuant to that contract are projected at the time of the execution of the contract to travel from launch to separation.

3. If the Internal Revenue Service or the Franchise Tax Board is prevented by reasons of secrecy or confidentiality imposed by governmental authorities from determining the projected mileage of any launch contract, the mileage ratio denominator of such contracts shall be conclusively presumed to be 310 statutory miles multiplied by the number of launches pursuant to that contract.

4. Mileage factor numerator. For each launch contract under which revenue is recognized in a taxable year, the mileage ratio for that contract shall be multiplied by the revenue recognized from that contract in the taxable year. The product shall be added to the products for each launch contract for which the taxpayer recognizes revenue in the taxable year the sum of which shall be the numerator of the mileage factor.

5. Mileage factor denominator. The total revenue recognized from all launch contracts during the taxable year shall be the denominator of the mileage factor.

(B) Departure factor.

1. Departure factor numerator. For each launch contract under which the taxpayer recognizes revenue in a taxable year, the contribution to the numerator of the departure factor shall be the number of launches in this state as specified in the contract at the time of execution of the contract. The numerator of the departure factor shall include all launches in this state specified in the contract regardless of the taxable year in which the launches occur or are planned to occur. The numerator of the departure factor shall be the sum of the contributions to the numerator factor for all launch contracts under which the taxpayer recognizes revenue.

2. Departure factor denominator. For each launch contract under which the taxpayer recognizes revenue in a taxable year, the contribution to the denominator of the departure factor shall be the number of launches everywhere as specified in the contract at the time of execution of the contract. The denominator of the departure factor shall include all launches specified in the contract regardless of the taxable year in which the launches occur or are planned to occur. The denominator of the departure factor shall be the sum of the contributions to the departure factor for all launch contracts under which the taxpayer recognizes revenue.

(d) *Records.* The taxpayer shall maintain all books and records necessary to determine the mileage factor, departure factor, and revenue recognized in the taxable year pursuant to all launch contracts for such time as any statute of limitation remains open for examination of the taxpayer's return.

(e) Example.

Taxpayer is a space transportation company that has entered into three launch contracts that result in the recognition of revenue in taxable year 201X. The first contract ("Contract A") is for two launches outside this state where the launch vehicles will each travel 1,000 miles from launch to separation. Taxpayer will recognize \$2,000,000 of revenue in taxable year 201X from this contract. The second contract ("Contract B") is for one launch from outside of this state where the launch vehicle will travel 10,000 miles from launch to separation. Taxpayer will recognize \$500,000 of revenue in taxable year 201X from this contract. The third contract ("Contract C") is for one launch from within this state where the launch vehicle will travel 1,000 miles from launch to separation. Taxpayer will recognize \$1,000,000 of revenue in taxable year 201X from this contract. Taxpayer also has \$500,000 of revenue from other than space transportation activities. The taxpayer's sales factor numerator from launch-related revenue in the taxable year shall be determined as follows:

	Contract A	Contract B	Contract C
Gross receipts recognized in 201X	\$2,000,000	\$500,000	\$1,000,000
Mileage ratio for each contract	$(0+0)/(1,000+1,000)=0$	$0/10,000 = 0$	$62/1,000 = 6.2\%$
Contribution to mileage factor numerator from each contract	$\$2,000,000 \times 0 = \0	$\$500,000 \times 0 = 0$	$\$1,000,000 \times .062 = \$62,000$
Mileage factor numerator	$\$0 + \$0 + \$62,000 = \$62,000$		
Mileage factor denominator (total launch contract revenues recognized in taxable year)	$\$2,000,000 + \$500,000 + \$1,000,000 = \$3,500,000$		
Mileage factor	$(\$62,000 \div \$3,500,000) = 1.7714\%$		
Departure factor for all contracts in the taxable year	$1 \text{ launch from this state} \div 4 \text{ launches everywhere} = 1/4 = 25\%$		
Sales factor: Mileage factor weighted 80% plus departure factor weighted 20%	$(1.7714\% \times 80\%) + (25\% \times 20\%) = 6.42\%$		

Gross receipts to be included in sales factor numerator in the taxable year multiplied by taxpayer total gross receipts $.0642 \times \$4,000,000 = \$256,800$

(f) *Combination of Space Transportation Activities with other Trades or Business.* (Reserved.)

(g) *Applicable Date of Regulation.* This regulation shall be applicable to taxable years beginning on or after January 1, 2016.

NOTE: Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Section 25137, Revenue and Taxation Code.