Regulation 25137-15.

Allocation and Apportionment of Income of Space Transportation Companies.

(a) *In General*.

(1) When a space transportation company has income from sources both within and without this state, the amount of business income from sources within this state shall be determined pursuant to this regulation. In such cases, the first step is to determine what portion of the space transportation company's income constitutes "business" income and what portion constitutes "nonbusiness" income under Revenue and Taxation Code, Section 25120 and Title 18, California Code of Regulations, Section 25120. Nonbusiness income is directly allocable to this state pursuant to the provisions of Revenue and Taxation Code Sections 25123 through 25137, inclusive. Business income is apportioned to this state pursuant to the sales factor set forth in this regulation. The sum of the items of nonbusiness income directly allocated to this state plus the amount of business income attributable to this state constitutes the amount of the taxpayer's entire net income which is subject to tax in this state.

(2) When a taxpayer, or an affiliate of a taxpayer, other than a space transportation company conducts space transportation activities and the receipts related to such activities are separately identified, such receipts shall be included in the sales factor pursuant to subsection (c) herein.

(3) Income derived from space transportation activities shall be apportioned according to this regulation regardless of the taxpayer's method of accounting. For the purposes of this regulation, the apportionment method used for income recognized under the percentage of completion method shall be computed based on all launches completed and yet to occur under each contract.

(4) This regulation shall be applicable to income years beginning on or after January 1, 2015.

(b) *Definitions*.

(1) As used in this regulation, the term "space transportation company" means a provider of space transportation for compensation.

(2) "Space transportation" means the movement of objects, such as satellites and vehicles carrying cargo, scientific payloads, or passengers, to, from, or in space.

(3) "Launch" means to move or attempt to move a launch vehicle and any payload from Earth to space.

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

(5) "Payload" means the object to be placed into space by a launch vehicle, including but not limited to satellites and spacecraft.

(6) A "launch contract" includes contracts with private or governmental entities to provide space transportation.

(7) "Launch-related research and development" includes contracts to conduct research and development services where information or technology arising from the research and development is contemplated, at the time of executing the contract, to be used in a launch and the location of the

anticipated launch site and the anticipated miles to be traveled pursuant to the launch are known at the time of executing the contract.

(8) “Launch-related revenue” includes revenue derived from launch contracts and launch-related research and development contracts.

(9) “Space” is considered to start 62 miles above the Earth’s surface.

(10) “Separation” occurs where the payload separates from the launch vehicle.

(c) *Apportionment of business income.*

(1) In general. The sales factor shall be determined in accordance with Regulation Sections 25134 to 25136-2, inclusive, except as modified by this regulation and by Regulation Section 25137.

(2) Sales factor numerator from launch-related revenue. In determining the numerator of the sales factor, launch-related revenue shall be attributed to this state based upon the mileage factor, weighted at 80 percent, and the departures factor, weighted at 20 percent.

(3) Computation of mileage factor and departures factor.

(A) Mileage factor. The mileage factor will be computed by applying a mileage ratio, by contract, to the launch-related revenue recognized during the taxable year for that contract.

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

2. Mileage ratio denominator. The denominator of the mileage ratio for each contract that results in launch-related revenue shall be the total projected mileage that all launch vehicles launched pursuant to that contract will travel from the point of launch to the point of separation.

3. Mileage factor numerator. For each contract under which launch-related revenue is recognized in the taxable year, the mileage ratio for that contract shall be multiplied by the launch related revenue recognized from that contract in the taxable year. The product of this calculation for each contract shall be summed and that sum shall be the numerator of the mileage factor.

4. Mileage factor denominator. The total launch-related revenue recognized during the taxable year shall be the denominator of the mileage factor.

(B) Departure factor.

1. Departure factor numerator. The numerator of the departure factor shall be the number of launches in this state that have occurred or will occur pursuant to contracts that give rise to the recognition of launch-related revenue during the taxable year.

2. Departure factor denominator. The denominator of the departure factor shall be the number of launches everywhere that have occurred or will occur at any time pursuant to contracts that give rise to the recognition of launch-related revenue during the taxable year.

(4) Confidential contracts. If an audit of a contract is prohibited or restricted by reasons of secrecy or confidentiality imposed on taxpayer by governmental authorities, the gross receipts from that contract shall be eliminated from both the numerator and denominator of the sales factor.

(5) *Mishaps*. If a mishap occurs, as defined in 14 CFR 401.5, revenue recognized from the contract pursuant to which the launch occurred shall be treated for apportionment purposes as if the launch succeeded.

(d) *Records*. The taxpayer shall maintain the records necessary to determine the anticipated miles traveled and departure locations as used in this regulation.

(e) **Example**.

Taxpayer has entered into three contracts that result in the recognition of launch-related revenue in the taxable year. The first contract is for two 1,000 mile launches from outside of this state, with $2,000,000 of gross receipts recognized in the taxable year. The second contract is for one 10,000 mile launch from outside of this state, with $500,000 of gross receipts recognized in the taxable year. The third contract is for a 1,000 mile launch from within this state, with $1,000,000 of gross receipts recognized in the taxable year. The determination of taxpayer's sales factor numerator from launch-related revenue in the taxable year is as follows:

		Two launches outside this state	One launch outside this state	One launch within this state
1	Gross receipts recognized in the taxable year from launch related revenue	$2,000,000	$500,000	$1,000,000
2	Mileage ratio for each contract	(0+0)/(1,000+1,000) = 0	0/10,000 = 0	62/1000 = 6.2%
3	Contribution to mileage factor numerator from each contract	$2,000,000 x 0 = $0	$500,000 x 0 = $0	$1,000,000 x .062 = $62,000
4	Mileage factor numerator	$0 + $0 + $62,000 = $62,000		
5	Total launch-related revenues recognized in taxable year = Mileage factor denominator	$2,000,000 + $500,000 + $1,000,000 = $3,500,000		
6	Mileage factor	($62,000 ÷ $3,500,000) = 1.7714%		
7	Departure factor for all contracts in the taxable year	1 launch from this state ÷ 4 launches everywhere = 1/4 = 25%		
8	Sales factor for launch-related revenues: Mileage factor weighted 80% plus Departure factor weighted 20%	(1.7714% x 80%) + (25% x 20%) = 6.42%		

9	Gross receipts from launch-related revenues to be included in sales factor numerator in the taxable year	.0642 x $3,500,000 = $224,599.20