

## Income/Franchise:

### Colorado DOR's Draft Special Industry Apportionment Rule Addresses Hedging Transactions

*Draft Proposed Regs. Special Rule 9A, Apportionment of Income for Electricity Producers*, Colo. Dept. of Rev. (8/21). The Colorado Department of Revenue (Department) has posted a draft state corporate income tax special apportionment rule for electricity producers that prescribes inclusion of certain receipts from hedging transactions in their receipts factors. In doing so, the Department explains that it has determined that the exclusion of certain hedging transactions from the receipts factor of electricity producers “does not fairly represent the extent of an electricity producer’s business activity in Colorado” and that “gains and losses on hedging transactions entered into to manage risks associated with the gross income electricity producers expect from their wholesale sales of electricity are best accounted for in the receipts factor as adjustments to the gross receipts from such sales.” The Department announces that it is seeking input from stakeholders regarding this draft special industry apportionment rule, but it does not plan to convene a stakeholder workgroup for it prior to formal rulemaking “unless comments indicate one is necessary.” To this end, the Department requests comments on the draft special industry apportionment rule by September 17, 2021. After evaluating received comments, the Department states that it will determine whether the draft rule should move forward and, if so, whether further revisions to the rule are necessary. Please contact us with any questions.

**URL:** <https://tax.colorado.gov/news-article/drafts-for-stakeholder-input-income-tax-special-apportionment-rules>

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