

Income/Franchise:

Pennsylvania DOR Addresses Corporate Income Tax Treatment and Apportionment of Electricity

Corporation Tax Bulletin 2023-01: Treatment of Electricity for Corporate Net Income Tax

Apportionment Purposes, Pa. Dept. of Rev. (5/1/23). The Pennsylvania Department of Revenue (Department) issued a state corporate net income tax (CNIT) bulletin addressing how it intends to assess the “taxability and correct apportionment” of electricity, concluding that electricity must be treated as tangible personal property (rather than a service or intangible property) for CNIT apportionment purposes. Accordingly, for all open CNIT periods, the Department states that it will treat receipts from transactions involving the sale of electricity as generating receipts from the sale of tangible personal property for sales factor sourcing purposes (*i.e.*, such receipts must be sourced pursuant to 72 P.S. § 7401(3)2.(a)(16), the associated regulations, and previous applicable interpretations of the Pennsylvania courts). In the case of partnerships that are engaged in the sale of electricity and have one or more corporate partners, the Department explains that the partnership’s receipts from the sale of electricity “will flow up to its corporate partner(s) in the same manner as any other sale of tangible personal property.” Please contact us with any questions.

URL: https://www.revenue.pa.gov/TaxLawPoliciesBulletinsNotices/TaxBulletins/CT/Documents/ct_bulletin_2023_01.pdf

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