



MULTISTATE INDIRECT TAX

San Francisco releases draft market sourcing rules for gross receipts tax

Tax Alert

Overview

Proposition M, passed by the City of San Francisco (“City”) voters on November 5, 2024, requires the Tax Collector to promulgate regulations interpreting how businesses must allocate their receipts to the City for San Francisco Gross Receipts Tax purposes. See our [Tax Alert](#) issued on November 7, 2024 for more details on Proposition M.

On February 28, 2025, the City Tax Collector released proposed sourcing regulations (“Proposed Regulations”) applicable to gross receipts from services, intangible property, and financial instruments. The Proposed Regulations generally align with the definitions and market sourcing language from the proposed regulations recently issued by the California Franchise Tax Board (“FTB”) applicable to sales of other than tangible property for franchise and income tax apportionment purposes. As with the FTB’s proposed regulations, these Proposed Regulations use a cascading series of rules to assign receipts to where the benefit is ultimately received. The Tax Collector has scheduled a public hearing to discuss the draft rules and is accepting comments on or before April 8, 2025.

This Tax Alert provides a brief overview of the Tax Collector’s Proposed Regulations and highlights some taxpayer considerations.

Proposed sourcing regulations

The Proposed Regulations largely adopt the FTB’s recently issued proposed regulations, which provide cascading sourcing rules for sales of other than tangible property, such as receipts from services and intangible property, including sales of financial instruments.

Services

The cascading rules first look to the taxpayer’s contracts or books and records to determine the location where the benefit of the service was received. The benefit of the service shall be presumed to be in the City to the extent the service (i) predominantly relates to real property located in the City, (ii) tangible personal property located in the City when the service is received, (iii)

intangible personal property used in the City, (iv) financial instruments if the customer is located in the City, and (v) individuals who are physically present in the City when the service is delivered.

If the location of the benefit of the service cannot be determined using the taxpayer's contracts or books and records, the cascading rules next allow all other sources of information to be used to substantiate the location of the benefit. If the location of the benefit cannot be determined using the taxpayer's contracts or books and records, or using other sources of information, the cascading rules provide for the use of reasonable approximation to determine the location of where the benefit of the service is received. Finally, if the location of the benefit of the service cannot be determined using reasonable approximation, use of the customer's billing address as indicated in the taxpayer's books and records is allowed to determine the location of the benefit of the service.

For reasonable approximation, the FTB's proposed regulation allows use of a population ratio based on U.S. census data. The Proposed Regulations go further by allowing gross domestic product as an additional method of reasonable approximation, without specifying which method may be used.

Intangible property

Gross receipts from intangible property are generally sourced to the City to the extent the property is used in the City. Notably, the Proposed Regulations do not follow these rules for receipts from "financial instruments," but instead proposed to adopt rules similar to those contained in the FTB's proposed regulations which are applicable to sales of "marketable securities."

In the case of the complete transfer of all property rights of intangible property, such as the sale of patents or an ownership interest, the location and use of the intangible property shall be presumed to be in the City to the extent at the time of sale the contract between the taxpayer and purchaser, or the taxpayer's books and records kept in the normal course of business, indicate that the intangible property will be used by the purchaser in the City. Going further, the Proposed Regulations contain specific rules for when the receipts are from a complete transfer of all property rights that are characterized as dividends or goodwill, and interest.

With respect to dividends or goodwill, the sourcing rules look to the dividend payor entity (or the entity sold, if goodwill) to assign receipts to the City based on their proportion of prior, or current, year's gross receipts. The use of prior year or current year gross receipts is determined by whether the sale of intangible property occurred in the first or second half of the tax year. In the event the taxpayer does not have access to the information needed to determine assignment of receipts, the Proposed Regulations provide for using dividend payor's commercial domicile, or the commercial domicile of the entity sold that relates to the goodwill.

Interest from investments (that is not excluded from the definition of "gross receipts" and is not interest from loans) is generally sourced to the location of where the investment is managed. Interest from loans secured by real property is generally sourced to the location of where the real property is located. Interest from loans not secured by real property is generally sourced to the location of the borrower.

Financial instruments

Financial instruments are excluded from the definition of intangible property. The Proposed Regulations do not define financial instruments but provide sourcing rules for these sales.

Gross receipts from the sales of financial instruments are assigned to the located of the customer. For the purposes of this section, "customer" is the

person who gains the greatest possession of economic rights in the financial instruments. The assignment of these receipts differs depending on if the customer is an individual or a business entity. If the customer is an individual, the gross receipts shall be assigned to the City if the customer's billing address at the end of the tax year is in the City. If the customer is a corporation or other business entity, the gross receipts shall be assigned to the City if the customer's commercial domicile is in the City. In the event the customer's billing address or commercial domicile cannot be determined, reasonable approximation shall be used to determine the location of the customer.

Industry special rules

The Proposed Regulations include special sourcing rules for specific industries, similar to various FTB industry specific sourcing rules. These industries include Franchisors, Motion Picture and Television Film Producers, Print Media, and Mutual Fund Service Providers and Asset Management Service Providers. The Proposed Regulations would also adopt the FTB's proposed regulation for professional services provided to more than 250 customers. The Proposed Regulations do not follow other FTB special industry rules, such as those for partnerships, contractors, banks and financial corporations, commercial fishing, air transportation companies, trucking companies, and space transportation companies. While the Proposed Regulations are silent regarding these industries, the Tax Collector has requested comments from any industry who believes special industry rules are necessary.

Asset management services

According to the Proposed Regulations, where gross receipts are from asset management services to non-regulated investment companies, the benefit of the asset management service is received at the domiciles of the investors, unless the investor is holding title to the assets for a beneficial owner. A separate alert is forthcoming with a more in-depth review of the rules applicable to asset management.

Considerations

Taxpayers should consider the impact of these draft sourcing regulations on their operations. The impact of Proposition M on specific taxpayers may vary considerably. Proposition M requires the Tax Collector to consider providing taxpayers with a safe harbor for allocating receipts to the City; however, no safe harbor or examples are included in the Proposed Regulations. Taxpayers should consider submitting written comments by April 8, 2025.

Get in Touch

[Hal Kessler](#)

[Lindsay Crews](#)



[Deloitte.com](#) | [Unsubscribe](#) | [Manage email preferences](#) | [Legal](#) | [Privacy](#)

30 Rockefeller Plaza
New York, NY 10112-0015
United States

As used in this document, "Deloitte" means Deloitte Tax LLP, a subsidiary of Deloitte LLP. Please see www.deloitte.com/us/about for a detailed description of our legal structure. Certain services may not be available to attest clients under the rules and regulations of public accounting.

This alert contains general information only and Deloitte is not, by means of this alert, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This alert is not a substitute for such professional

advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this alert.

The services described herein are illustrative in nature and are intended to demonstrate our experience and capabilities in these areas; however, due to independence restrictions that may apply to audit clients (including affiliates) of Deloitte & Touche LLP, we may be unable to provide certain services based on individual facts and circumstances.

Copyright © 2025 Deloitte Development LLC. All rights reserved.