State of Louisiana
Department of Revenue

Revenue Ruling
No. 06-018
November 3, 2006
Corporation Income and Franchise Taxes

Allocation and Apportionment Ratio Treatments Regarding Foreign Trade Zones

Purpose: The purpose of this Revenue Ruling is to state the Department's position regarding the treatment of property in a foreign trade zone and its affect on corporation income and franchise taxes.

Analysis/Discussion: Foreign trade zones were established by Congress to allow foreign merchandise to enter the United States without being subject to customs duties or certain excise taxes in accordance with 19 USCA 81(c). Only merchandise that is delivered into the zone for the specific purpose of being stored, manipulated, manufactured, or exhibited is not subject to the custom laws of the United States that include duties and excise taxes.

Corporation Franchise

R.S. 47:606(D) provides that corporeal movable property imported into the United States and located in Louisiana in a foreign trade zone is located outside of Louisiana. This property is therefore excluded from the numerator of the property ratio. It is important to note that only corporeal movable property imported into the United States receives this treatment for franchise tax purposes.

In *Texaco Refining & Marketing, Inc vs. Secretary, Department of Revenue, BTA Docket No. 5920 (2003)*, the Louisiana Board of Tax Appeals ruled that because the statute specifically states: "…for the purposes of this section…", R.S. 47:606(D) applies to both the property and revenue ratios. Therefore, goods, merchandise, or property imported from outside the United States and received in a Louisiana foreign trade zone are considered received outside of Louisiana and are excluded from the numerator of the revenue ratio.

Corporation Income

R.S. 47:287.95(H) permits corporeal movable property located in Louisiana in a foreign trade zone to be considered as located outside Louisiana. Unlike the franchise tax provision, this applies to all corporeal movable property, not only property imported into the United States.

Although the Board of Tax Appeals ruling in *Texaco* addressed the corporation franchise tax, it is logical to assume, that since the wording in the income statute is the same "…for purposes of this section…", the Board would conclude that R.S. 47:287.95(H) applied to both the property and revenue ratios. Therefore, sales of goods, merchandise, or property received in a foreign trade zone are excluded from the numerator of the revenue ratio.

Conclusion: In the determination of the property ratio for corporation income tax purposes, corporeal movable property is to be treated as outside Louisiana when physically located in a foreign trade zone. For corporation franchise tax purposes, to be excluded from the numerator of the property ratio it must have been imported into the Louisiana foreign trade zone from outside the United States.

In the determination of the income tax revenue ratio, a taxpayer selling corporeal movable property to a customer who receives the property in a foreign trade zone may exclude the sales from the numerator of the revenue ratio. To receive the same numerator exclusion for franchise tax purposes, the seller must have delivered the property to the foreign trade zone from outside the United States.

Cynthia Bridges
Secretary