

R&TC § 25120 - Definitions

Revenue and Taxation Code (R&TC) section 25120 was amended to provide for the definition of gross receipts in California for taxable years beginning on or after January 1, 2011.

Applicable for Taxable Years Beginning on or after 1/1/2011

As used in Sections 25120 to 25139, inclusive, which shall hereafter be referred to as "this act," unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Nonbusiness income" means all income other than business income.

(e) For taxable years beginning before January 1, 2011, "sales" means all gross receipts of the taxpayer not allocated under Sections 25123 to 25127, inclusive.

(f) For taxable years beginning on or after January 1, 2011:

(1) "Sales" means all gross receipts of the taxpayer not allocated under 25123 to 25127, inclusive.

(2) "Gross receipts" means the gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest, and dividends) in a transaction that produces business income, in which the income, gain, or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code, as applicable for purposes of this part. Amounts realized on the sale or exchange of property shall not be reduced by the cost of goods sold or the basis of property sold. Gross receipts, even if business income, shall not include the following items:

(A) Repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or similar marketable instrument.

(B) The principal amount received under a repurchase agreement or other transaction properly characterized

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(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Nonbusiness income" means all income other than business income.

(e) "Sales" means all gross receipts of the taxpayer not allocated under Sections 25123 through 25127 of this code.

(f) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

as a loan.

(C) Proceeds from issuance of the taxpayer's own stock or from sale of treasury stock.

(D) Damages and other amounts received as the result of litigation.

(E) Property acquired by an agent on behalf of another.

(F) Tax refunds and other tax benefit recoveries.

(G) Pension reversions.

(H) Contributions to capital (except for sales of securities by securities dealers).

(I) Income from discharge of indebtedness.

(J) Amounts realized from exchanges of inventory that are not recognized under the Internal Revenue Code.

(K) Amounts received from transactions in intangible assets held in connection with a treasury function of the taxpayer's unitary business and the gross receipts and overall net gains from the maturity, redemption, sale, exchange, or other disposition of those intangible assets. For purposes of this subparagraph, "treasury function" means the pooling, management, and investment of intangible assets for the purpose of satisfying the cash flow needs of the taxpayer's trade or business, such as providing liquidity for a taxpayer's business cycle, providing a reserve for business contingencies, and business acquisitions, and also includes the use of futures contracts and options contracts to hedge foreign currency fluctuations. A taxpayer principally engaged in the trade or business of purchasing and selling intangible assets of the type typically held in a taxpayer's treasury function, such as a registered broker-dealer, is not performing a treasury function, for purposes of this subparagraph, with respect to income so produced.

(L) Amounts received from hedging transactions involving intangible assets. A "hedging transaction" means a transaction related to the taxpayer's trading function involving futures and options transactions for the purpose of hedging price risk of the products or commodities consumed, produced, or sold by the taxpayer.

(3) Exclusion of an item from the definition of "gross receipts" shall not be determinative of its character as business or nonbusiness income.

(4) The changes to this section by the act adding this sentence pertaining to taxable years beginning before January 1, 2011, constitute clarifying, nonsubstantive changes.

(g) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto

Rico, any territory or possession of the United States,
and any foreign country or political subdivision thereof.
