

Ruling 99-07

Vermont Department of Taxes

Date: December 20, 1999

Written By: George H. Phillips, Policy Analyst

Approved By: Sean P. Campbell, Commissioner of Taxes

You have requested a ruling as to whether interest income of [Corporation] is apportionable or allocable income for the purposes of calculating Vermont Net Income for the company's Vermont corporation income tax.

Your letter indicates that [Corporation] is a corporation which does business in several states including Vermont. Its business headquarters and all of its fixed assets are located in New Hampshire.

The corporation has deposited operating funds into accounts with a Vermont bank, including checking and savings accounts and certificates of deposit. The corporation earned interest income of approximately \$5,500 from these funds for 1998.

Vermont Net Income of a corporation doing business in more than one state is determined in accordance with title 32 V.S.A. § 5833. Income from any trade, business, or activity entirely within the state is allocated entirely to Vermont and income from trade, business or activity conducted both within and without the state is allocated to the state only after applying a three-factor apportionment formula.

Regulation 1.5833 (e) provides that: "(e) Nonbusiness income will be allocated to the state in which the income producing assets are located. If the income producing asset has no situs, the income will be allocated to the state of commercial domicile, the principle place from which the business is directed or managed."

Interest income from money deposited in financial institutions is not considered to have a situs. The income from your client's checking accounts, savings accounts, and certificates of deposits, if nonbusiness income, would be allocated to New Hampshire (the commercial domicile) rather than to Vermont. The test for determining nonbusiness property is identified in Reg. 1.5833 (d)(6): "(6) Nonbusiness Receipts Nonbusiness receipts are all receipts other than business receipts resulting from operations unrelated to its regular business operations. Typically nonbusiness receipts are comprised of passive or portfolio income. Income from dividends, interest and capital gains will be considered nonbusiness income unless the acquisition, management, and disposition of the underlying property generating the income constitute an integral part of the taxpayer's regular business operations."

Your letter indicates that the deposits constitute operating funds of the business. Therefore the interest generated from these funds does not qualify as nonbusiness income and is subject to apportionment.

For the purpose of apportionment, interest is included in the numerator of the Vermont sales factor only if the company manages the funds from Vermont. The fact that the interest was paid in Vermont or that the funds were on deposit with a Vermont bank would not require the interest to be included in the Vermont numerator.

This ruling is issued solely to your business and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach, but the Department will not be bound by this ruling in the case of any other taxpayer or in the case of any change in the relevant statute or regulations.