

An aerial view of an airplane's wing and tail section, extending from the left side of the frame towards the right. The sky is a clear, deep blue, and a layer of white, fluffy clouds is visible below the wing. The text is overlaid on the upper portion of the image.

Model Receipts Sourcing Regulation Review Work Group

November 12, 2024

“Sales factor” for airlines—current language

$$\left(\frac{\text{weighted in-state departures}}{\text{weighted total departures}} \times \text{transportation revenue} \right) + \text{non-flight revenues directly attributable to this state}$$

transportation revenue + miscellaneous sales of merchandise, etc.

“Transportation revenue” means revenue earned by transporting passengers, freight and mail as well as revenue earned from liquor sales, pet crate rentals, etc.

Airlines Special Industry Rule

**11/1/14 Discussion Draft
Proposed Changes to Current Rule**

Definition of “Transportation Receipts”

§§ 2 (i) (J), (K) & (L)

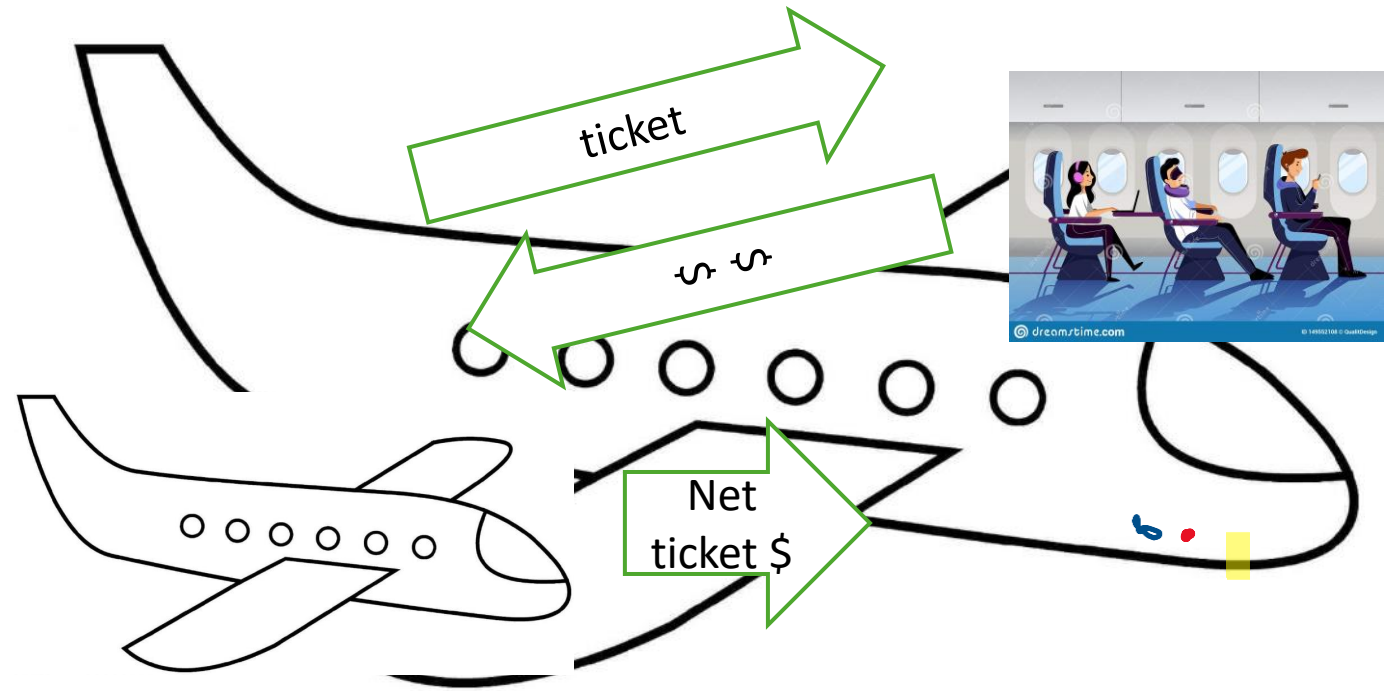
- Receipts from the sale of tickets under codesharing and other agreements
 - (sale of tickets to fly on airplanes of other airlines)
- Receipts from the sale of capacity to other airlines
- Baggage fees
- Receipts from “selling or renting property or services to be used or consumed during the course of air transportation (e.g., sale of food, entertainment and Wi-Fi)
- Sale of “points” or “miles” which may be redeemed for air travel

Note that the draft incorporates the definition of “receipts” contained in the Compact and model rules.

Revenue from Codeshare arrangements

Airline 1 sells tickets to passengers for flights operated by Airline 2.

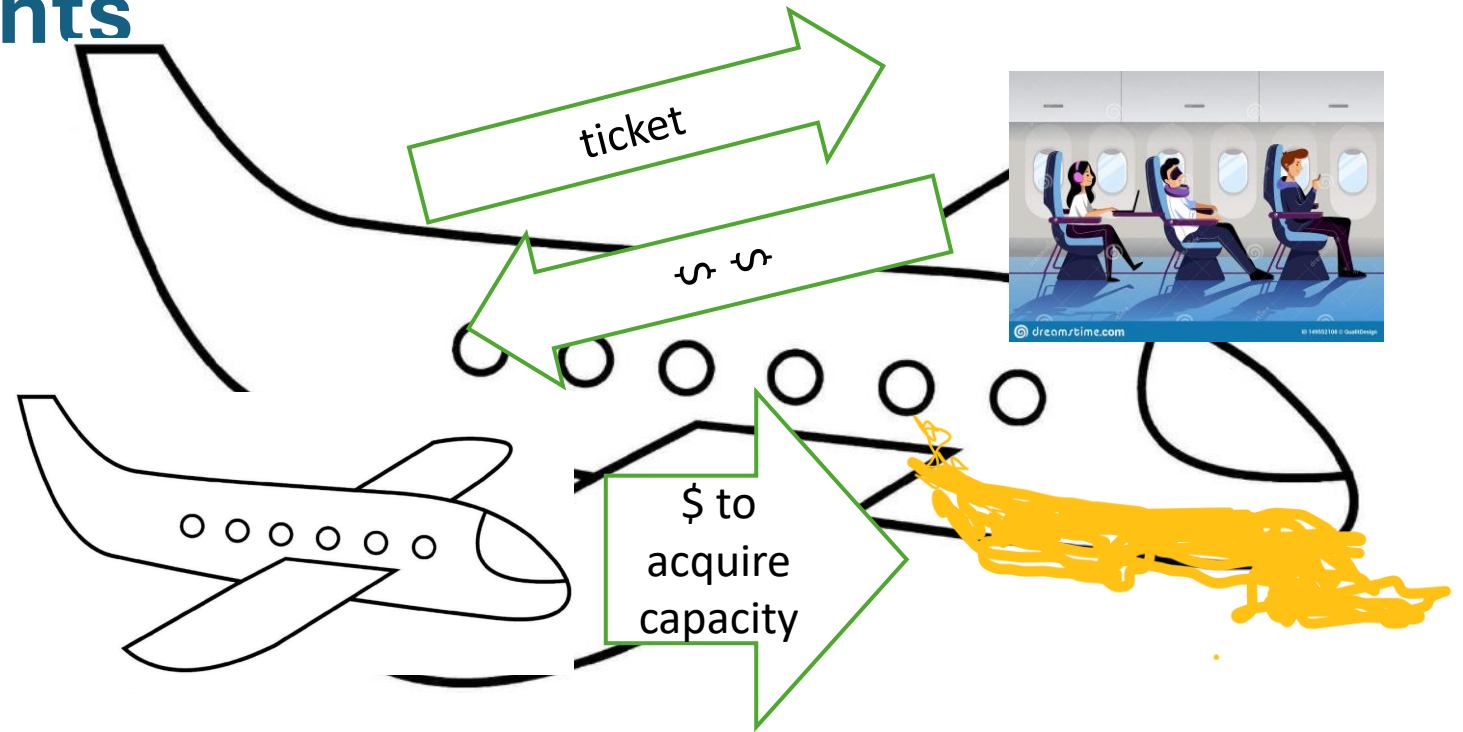
Airline 1 remits this revenue to Airline 2, net of a portion it retains.



Revenue from Capacity Purchase Agreements

Airline 1 purchases seating capacity on flights operated by Airline 2.

Airline 1 retains all passenger revenue.



Recall: *Dep't of Revenue v. Alaska Airlines*,
2022 Ore. Tax LEXIS 33, July 21, 2022

Tax Court's holding: Receipts from the sale of pursuant to capacity purchase agreements and receipts from the sale of airplane tickets pursuant to codeshare agreements do not constitute "transportation revenue" because Alaska Airlines did not operate the flights.

Receipts Factor for Airlines § 2(iv)

Denominator

Cleaned up language without substantive changes except that the carveout for “passive income items such as interest, rental income, dividends, etc.” is deleted. Interest and dividends are still excluded per the General Allocation & Apportionment Rules.

Numerator

Cleaned up language without substantive changes.

Receipts factor for certain other taxpayers (“points” or “miles”) § 2 (iv) (C)

If a taxpayer and an airline are related parties under Reg. IV.17.(a).(3)(H),

but the taxpayer is not an airline,

the taxpayer will source any receipts from its sale of “points” or “miles” that may be redeemed by the purchaser or by a third party for air travel

by applying the departures ratio applicable to the related airline.

Businesses that would be covered by the rule

- Airlines, which are now defined (§ 2 (i) (A)):

“Airline” means a taxpayer that transports passengers, freight, or packages by air for a charge and that holds an air carrier certificate issued by the Federal Aviation Authority or a foreign air carrier permit issued by the U.S. Department of Transportation.

- Certain other taxpayers:

“[W]ith respect to the sourcing of ‘points’ or ‘miles,’” other taxpayers that are related to an airline. Related parties are defined by Reg. IV.17(a)(3)(H).

Non-substantive language clean-up

Example

The term “Cost of aircraft by type,” which currently is defined as “the average original cost or value of aircraft . . .” is replaced by the term “Value of aircraft by type” and original cost is deleted from the definition. See § 2 (i) (C).

There is no substantive change because the rule elsewhere defines “value” to mean “original cost” which in turn means federal tax basis plus the value of capital improvements.

Examples

- Current examples are cleaned up, including adding a bit more math to make the equations more intuitive.
- Three new examples are added:
 - Ex. 3. Addresses the sourcing of receipts that are not transportation receipts and also interest income
 - Ex. 4. Addresses receipts from the sale of plane tickets pursuant to a codesharing agreements
 - Ex. 5. Addresses the sale of airline “miles.”

Topic not addressed by the discussion draft

How to source:

- receipts of a business that transports a package in part by air and in part by ground for a single charge (is the analysis affected by whether or not the taxing state is a *Finnigan* state?), and
- receipts of a business such as a freight forwarder that contracts with both an airline and a ground transportation company to transport a package (the entities may be related or unrelated)?

Additional language in the rule?

Drafter's note to identify the issue?

Other Topics to be considered by the work group?



Other Business



Uniformity Committee meeting –
November 19, 2024

Santa Fe, New Mexico