Kansas Administrative Regulations

Kansas Department of Revenue

Article 12.—Income Tax

92-12-111. Special rules; airlines.

(a) Apportionment of business income. When an airline has income from sources both within and without the state of Kansas, the amount of business income from sources within the state of Kansas shall be determined pursuant to this regulation.

(b) The following definitions are applicable to the terms used in the apportionment factor descriptions:

(1) "Value of owned real and tangible personal property" shall mean its original cost.

(2) "Cost of aircraft by type" means the average original cost or value of aircraft by type which are ready for flight.

(3) "Original cost" means the initial federal tax basis of the property plus the value of capital improvements to such property, except, for this purpose, it shall be presumed that safe harbor leases are not true leases and do not affect the original initial federal tax basis of the property.

(4) "Average value" of property means the amount determined by averaging the values at the beginning and end of the income year. However, the department of revenue may require the averaging of monthly values during the income year if averaging is necessary to reflect properly the average value of the airline's property.

(5) The "value of rented real and tangible personal property" means the product of eight times the net annual rental rate.

(6) "Net annual rental rate" means the annual rental rate paid by the taxpayer.

(7) "Property used during the income year" includes property which is available for use in the taxpayer's trade or business during the income year.

(8) "Aircraft ready for flight" means aircraft owned or acquired through rental or lease, except for an interchange, which are in the possession of the taxpayer and are available for service on the taxpayer routes.

(9) "Revenue service" means the use of aircraft ready for flight for the production of revenue.

(10) "Transportation revenue" means revenue earned by transporting passengers, freight and mail as well as revenue earned from such things as liquor sales and pet crate rentals.

(11) "Departures" means all takeoffs, whether they are regularly scheduled or charter flights, that occur during revenue service.

(c) Property factor.

(1) Owned aircraft shall be valued at its original cost and rented aircraft shall be valued at eight times the net annual rental rate. The use of the taxpayer's owned or rented aircraft in an interchange program with another air carrier will not constitute a rental of the aircraft by the airline to the other participating airline. The aircraft used in an interchange program shall be accounted for in the property factor of the owner. Parts and other expendables, including parts for use in contract overhaul work, shall be valued at cost.

(2) The denominator of the property factor shall be the average value of all of the taxpayer's real and tangible personal property owned or rented and used during the income year. The numerator of the property factor shall be the average value of the taxpayer's real and tangible property owned or rented and used in the state of Kansas during the income year. To determine the numerator of the property factor, all property except aircraft ready for flight shall be included in the numerator of the property factor. Aircraft ready for flight shall be included in the numerator of the property factor in the ratio calculated as follows: Departures of aircraft from locations in the state of Kansas weighted as to the cost and value of aircraft by type compared to total departures similarly weighted.

(d) Payroll factor.

(1) The denominator of the payroll factor is the total compensation paid everywhere by the taxpayer during the income year. The numerator of the payroll factor is the total amount paid in the state of Kansas during the income year by the taxpayer for compensation.

(2) Compensation paid to non-flight employees shall be included in the numerator as provided in K.A.R. 92-12-93 and 92-12-94. Compensation to flight personnel, including the air crew aboard an aircraft which assist in the operations of the aircraft or the welfare of the passengers while in the air, shall be included in the ratio that departures of aircraft from locations in the state of Kansas, weighted as to the cost and value of aircraft by type compared to total departures similarly weighted, multiplied by the total flight personnel compensation.

(e) Sales factor.

(1) The transportation revenue derived from transactions and activities in the regular course of the trade or business of the taxpayer and miscellaneous sales of merchandise are included in the denominator of the revenue factor. Passive income items, including but not limited to items such as interest, rental income, dividends, and proceeds, shall not be included in the denominator. Proceeds and net gains or losses from sales of an aircraft shall not be included in the denominator.

(2) The numerator of the revenue factor is the total revenue of the taxpayer in the state of Kansas during the income year. The total revenue of the taxpayer in Kansas during the income year is the result of the following calculation: The ratio of departures of aircraft in Kansas weighted as to the cost and value of aircraft by type, as compared to total departures similarly weighted multiplied by the total transportation revenue. The product of this calculation is to be added to any non-flight revenues directly attributable to the state of Kansas.

(f) The taxpayer shall maintain the records necessary to arrive at departures by type of aircraft as used in these regulations. These records are subject to review by the department of revenue.

(Authorized by K.S.A. 79-3236; implementing K.S.A. 79-3288; effective May 1, 1987.)