Business Tax Administrative Rule 610.00-2A

610.00-2A – Apportionment of Gains and Incomes Due to Sale of A Business (LIC-6.11)
Both the Business License Law and the Business Income Tax Law define "any transaction involving the holding, sale, rental or lease of property" as "Doing Business". "Property" includes real property, tangible personal property and intangible property. Therefore, income from the sale of a business located within the City of Portland or Multnomah County (including gains on real property, tangible personal property and intangible property) is subject to the Multnomah County Business Income Tax and, if the business was located within the City of Portland, it is also subject to the City of Portland Business License Tax on such income.

If a business has income from business activity both within and without the City and County the business may apportion its incomes. All gross incomes, including gains derived from property transactions (see ~~AR 610.93-1~~ Administrative Rule 610.93-1 (LIC 1.04) "Definition of Total Gross Income & Gross Receipts for Apportionment and Exemption") must be included in the denominator of the apportionment fraction.

When a business is sold, the gains associated with that sale shall be assigned to the numerator and/or denominator of the apportionment formula. Gains associated with real property or tangible personal property will be assigned to the location of the real property or the tangible personal property. If the business is domiciled (headquartered) within the City or County, gains related to the sale of intangible property business will generally be included in the numerator of the apportionment formula. In a case where a business maintains multiple fixed physical locations, gains related to the sale of intangible property of the business will be logically allocated to those multiple locations.

Example 1
XYZ Manufacturing, based in California owns a manufacturing plant within Multnomah County. XYZ Manufacturing sells the plant at the end of the tax year.

XYZ manufacturing will include the following in the numerator of the apportionment formula:
1. Gains related to the sale of the plant (including real property and tangible personal property).
2. Gross receipts of tangible personal property shipped or delivered to Multnomah County locations.
3. Any other incomes (including interest from working capital accounts) that may have been earned by this business location.

Example 2
Columbia, PC (an S-Corporation) is a professional corporation engaged in professional activities throughout the Portland Metropolitan area. Columbia, PC has a single office located in Downtown Portland. Columbia, PC states that 70% of its services are performed within Multnomah County.

At the end of the tax year, Columbia, PC sells 100% of its stock in a Section 338 (H)(10) election (deemed asset sale).

The "deemed asset sale" is a taxable asset sale reported at the S-Corporation level, therefore, the gain from the sale must be included as gross income in the denominator of the apportionment formula.

The following must be included in the numerator of the apportionment factor:
1. 70% of the service income generated during the year.
2. The gain related to the deemed asset sale.
3. Any passive incomes that may have been earned by this entity.

Example 3
Worldwide Manufacturing, Inc. has a manufacturing plant and headquarters located in Multnomah County. A sales office is also located in California. Worldwide Manufacturing states 1% of its gross receipts are delivered to Multnomah County locations. Worldwide Manufacturing sells all assets in a complete divestiture at the end of their tax year.

It is determined that 50% of the sales price of $100,000,000 is for goodwill (with $0 book value). The remainder of the sales price is for the plant and equipment (with a book value of $50,000,000). The net gain is $50,000,000.

The following must be included in the numerator of the apportionment factor:
1. 1% of the gross receipts generated during the year.
2. The majority of the gain related to goodwill (note: The California "sales office" does not constitute a secondary headquarters for domicile purposes, however, a small, reasonable allocation of the goodwill may be allowed).
3. Any passive incomes that may have been earned by this entity.

Note: This rule sunsets 12/31/2022 and does not apply to tax years beginning on or after 1/1/2023.

XX-XX-2023	Thomas Lannom
Date	Director, Revenue Division

Amended XX-XX-2023