

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN
AND FOR LEON COUNTY,
FLORIDA

CASE NO.: 2024 CA 001111

DIVISION:

APPLE INC., a foreign corporation,

Plaintiff,

v.

STATE OF FLORIDA DEPARTMENT OF
REVENUE, an agency of the State of Florida,

Defendant.

COMPLAINT

Plaintiff, Apple Inc. (“Apple”), by and through counsel, sues the State of Florida, Department of Revenue, and alleges as follows:

PARTIES

1. Apple is a foreign corporation formed in California and it is authorized to conduct business in the State of Florida.

2. Defendant, the Florida Department of Revenue (the “Department”), is an agency established under the laws of the State of Florida.

JURISDICTION AND VENUE

3. This is an action to contest an assessment issued by the Department against Apple for corporate income taxes and interest made pursuant to Chapter 220, Florida Statutes.

4. This Court has jurisdiction over this matter pursuant to section 72.011, Florida Statutes.

5. Venue is proper in Leon County pursuant to Section 72.011(4)(b), Florida Statutes.

6. In compliance with Section 72.011(3)(b), Florida Statutes, Apple has obtained a waiver of the security requirement from the Department. The Department's letter memorializing the waiver is attached hereto as **Exhibit A**.

7. In compliance with Section 72.011(3)(a), Florida Statutes, Apple has paid to the state of Florida the portion of the amount of the tax, penalty, and accrued interest assessed by the Department which is not being contested by Apple.¹

8. This Complaint is timely-filed and any and all jurisdictional requirements have been met. All conditions precedent to this action have been performed or waived.

NATURE OF THE CONTROVERSY

9. This action seeks to contest an assessment issued by the Department to Apple for additional corporate income taxes under Chapter 220, Florida Statutes.

10. Apple contests the entire amount of the additional corporate income tax for Apple's fiscal years ending September 30, 2017, September 29, 2018, and September 28, 2019 (the "Audit Period") assessed on shown on the Notice of Proposed

¹ Apple made a payment on June 5, 2024 of \$1,2016,305, which is comprised of \$873,371 in tax plus \$332,934 of interest. The tax payment is related to the reduction of the Florida Voluntary Cleanup Tax Credit originally claimed on Apple's September 28, 2019 Florida tax return.

Assessment (the "NOPA"), dated April 4, 2022. The amount of additional corporate income tax assessed and shown on the NOPA, including interest accrued through April 4, 2022, is \$14,805,469.00. A copy of the NOPA is attached hereto as **Exhibit B**.

11. Following Apple's administrative appeal of the NOPA, the Department issued a Notice of Decision to Apple dated May 23, 2024 (the "NOD") affirming the assessment referenced in the NOPA. A copy of the NOD is attached hereto as **Exhibit C**. This appeal followed.

FACTUAL AND LEGAL ALLEGATIONS

12. All factual allegations below are true and correct for the Audit Period.

13. For all periods relevant to this action, Apple was a subchapter "C" corporation for both federal and Florida income tax purposes.

14. Section 220.15, Florida Statutes, provides that all corporations that are doing business both within and outside Florida are required to apportion their federal adjusted gross income to the state.

15. Apple was required to apportion its federal adjusted gross income to Florida under Section 220.15, Florida, Statutes, because it was doing business both within and outside Florida.

16. Corporations are generally required to apportion their federal adjusted gross income to Florida in accordance with the three-factor apportionment formula outlined in Section 220.15, Florida Statutes. The apportionment formula provided

by Section 220.15(1), Florida Statutes, is comprised of a sales factor, a property factor, and a payroll factor.

17. Apple was required to apportion its federal adjusted gross income to Florida in accordance with the three-factor apportionment formula referenced in Section 220.15(1), Florida Statutes.

18. There are four legal issues to be resolved in this dispute:

- i. In determining Apple's sales factor in the apportionment formula referenced in Section 220.15(1), Florida Statutes, whether certain digital services revenue received by Apple should be sourced to Florida and therefore included in its sales factor numerator;
- ii. In determining Apple's sales factor in the apportionment formula referenced in Section 220.15(1), Florida Statutes, whether certain revenue identified as "service revenue" should be deemed "sales" and included in Apple's sales factor denominator.
- iii. In determining Apple's sales factor in the apportionment formula referenced in Section 220.15(1), Florida Statutes, whether certain revenue identified as "other income" should be deemed "sales" and included in Apple's sales factor denominator.
- iv. In the event a tax assessment is appropriate for the Audit Period, whether interest on the assessment should be waived, as the delay in resolution is due to the Department.

ISSUE #1: SOURCING OF APPLE SALES FOR FLORIDA SALES
FACTOR NUMERATOR

19. Apple designs, manufactures and markets smartphones, personal computers, tablets, wearables and accessories, and sells a variety of related services.

20. Apple included its sales of tangible personal property shipped/delivered to Florida customers in the numerator of its originally filed income tax returns. These sourcing of these sales are not at issue in the Audit Period.

21. The Digital Services relevant to the Department's assertions can be classified into three groups: the "iTunes" category; the "Apps and iBooks" category; and the "Content Subscriptions" category (collectively, all three categories are referred to as "Digital Services").

22. The "iTunes" category includes sales and rentals of movies, television shows, and other video content delivered in digital format and downloadable music purchased as individual songs or albums. Apple owns or licenses the content at issue in the "iTunes" category.

23. The "Apps and iBooks" category includes: electronic book downloads (eBooks) and application downloads (APPs). With respect to sales in this category, Apple does not generally own or license the content at issue, and contracts with publishers of eBooks and developers of APPs as an agent. Notably, the publishers and developers are principals in all sales to customers that Apple facilitates through its "AppStore" or "Book Store" online marketplaces. Apple's receipts sales are commissions paid by publishers and developers for facilitating sales.

24. The “Content Subscriptions” category is comprised of recurring subscriptions allowing users to access various streaming content libraries (i.e. Apple TV+, Apple Music, Apple Arcade, etc.) or receive certain services (iCloud, Fitness+, etc.). Subscriptions can be purchased individually or in an “AppleOne” bundle.

25. Apple also receives revenues from third party licensing arrangements and Apple's own advertising platforms (the "Licensing Revenue"). The majority of Apple's Licensing Revenue is related to licensing agreements between Apple and various third parties, in which Apple is entitled to fees when users access third parties' services via Apple devices which have been set by the user or by default settings to access those third parties' services.

26. When, as in this case, there are sales other than sales of tangible property (*i.e.*, the Digital Services Revenue and Licensing Revenue), the composition of the sales factor is determined by Fla. Admin. Code Ann. 12C-1.0155(2).

27. The only provision in Fla. Admin. Code Ann. 12C-1.0155(2) that is applicable to Apple's sales at issue herein is subparagraph (l), the "COP Regulation."

28. Under the COP Regulation, sales are attributed to Florida if the income producing activity responsible for generating the sales revenue is performed by the taxpayer in this state. If the income producing activity is performed both within and outside Florida, the COP Regulation states that the sales will be attributed to Florida only if the greater proportion of the income producing activity is performed in Florida. For purposes of the COP Regulation, the "income producing activity" is defined by reference to the "costs of performance."

29. Apple was required to follow the COP Regulation for purposes of apportioning its Digital Services Revenue and Licensing Revenue.

30. Apple's reliance on the COP Regulation to source receipts from its Digital Services Revenue and Licensing Revenue is supported by two recent decisions of this Court – *Target Enterprises, Inc. v. Department*, 2021-CA-002158 (Nov. 28, 2022) and *Billmatrix Corporation v. Department*, 2020-CA-000435 (Mar. 1, 2023).

31. The Department's NOD sources Apple's Digital Services Revenue and Licensing Revenue as "Florida sales" and, therefore, included in the numerator of Apple's sales factor using a method that is commonly referred to "market sourcing" because it sources the revenue based on the perceived market for Apple's services. The NOD states "the income producing activity is sourced to the customer location because the services are consumed by the customers. To the extent that a separate income producing activity is identified to a Florida customer, that income producing activity occurs exclusively in Florida."

32. Apple disputes the Assessment because, *inter alia*, the greater proportion of the income producing activity for Digital Services Revenue and Licensing Revenue based on costs of performance occurs outside Florida.

33. Apple contends that the Department's application of the COP Regulation to source Digital Services Revenue and Licensing Revenue is improper, the Assessment is incorrect, and it and must be abated.

**ISSUE #2: DETERMINATION OF "SALES" FOR APPLE'S SALES FACTOR
DENOMINATOR- SERVICE FEES**

34. With respect to the second sales factor issue, Apple entered into written agreements ("Services Agreements") with certain foreign related parties pursuant to which Apple earned service fees the ("Service Fees") for providing the following services (collectively, the "Services"):

- Sales Support Services – includes the creation, development, and production of sales channel programs; advice and assistance in relation to new product introductions; development and provision of sales training; and other services that provide a benefit or may be required by the recipient.
- Manufacturing Support Services - includes engineering operations; product operations; quality control; procurement services; demand planning; logistics; data center management; and other services that may be required by the recipient.
- Marketing Support Services - includes the creation, development, and production of marketing strategies, programs, and advertising campaigns; advice in relation to the adoption of marketing strategies, programs, or advertising campaigns, development and production of marketing communications and collateral or visual displays; performance of market research and analysis; and other services that provide a benefit or may be required by the recipient.
- General Support Services - includes management services; information technology services; finance and accounting services; facilities support

services; human resources services; regulatory and quality assurance services; legal services; education and training services; and other general, administrative and support services as agreed to by the parties. The provision of such services involves allocation of employees as needed to carry out the services, ensuring that all services are carried out by properly trained and skilled employees, attending meetings necessary to discuss administrative matters, keeping proper books, records, documents, and information relating to services, and making these books available at any time for inspection by the recipient of the services.

35. Services Agreements the above transactions were in effect during the entire Audit Period. The nature of the Services, the Service Agreements, and the payment for Service Fees between Apple and its affiliates were virtually identical for all years in the Audit Period.

36. Moreover, the transactions and arrangements were rigorously examined by the Internal Revenue Service for all years in the Audit Period and ultimately determined to be arm's length.

37. The Service Fees represented approximately 5% of Apple's total annual gross receipts during the Audit Period.

38. Section 220.15(5), Florida Statutes, defines "sales" for the sales factor as all gross receipts of the taxpayer except interest, dividends, rents, royalties and gross receipts from the sale, exchange, maturity, redemption or other disposition of

securities. Similarly, Fla. Admin. Code Ann. 12C-1.0155(1) defines "sales" as all gross receipts received by the taxpayer from transactions and activities in the regular course of its trade or business.

39. On its originally filed returns for the Audit Period, Apple erroneously omitted the Service Fees from the denominator of its sales factor. During the informal protest process relating to the NOPA, Apple requested the Department include the Service Fees in the denominator of its sales factor.

40. The Department allowed inclusion of the Service Fees in the denominator of Apple's sales factor for the fiscal year ending September 28, 2019. However, the Department did not allow inclusion of the Service Fees in the denominator of Apple's sales factor for the fiscal years ending September 30, 2017 and September 29, 2018.

41. Apple disputes the Department's exclusion of Service Fees from the denominator of the September 30, 2017 and September 29, 2018 sales factor because for all years in the Audit Period, the Service Fees are gross receipts received by Apple from transactions and activities in the regular course of its trade or business per Section 220.15(5), Florida Statutes, and Fla. Admin. Code Ann. 12C-1.0155(1).

42. The amount of Service Fees excluded from the denominator are \$2,907,520,335 (September 30, 2017) and \$4,421,412,034 (September 29, 2018).

**ISSUE #3: DETERMINATION OF "SALES" FOR APPLE'S SALES
FACTOR DENOMINATOR- OTHER INCOME**

43. In addition to Service Fees, Apple earned revenue that it classified as "Other Income" from transactions in its normal course of business. Accordingly, it included the "Other Income" in its sales factor denominator for the Audit Period.

44. The amount of "Other Income" included in the denominator for the Audit Period is \$407,052,948 (September 30, 2017), \$102,415,727 (September 29, 2018); \$215,392,172 (September 28, 2019). This "Other Income" was included in the federal taxable income that is apportioned to Florida.

45. The Department removed the "Other Income" from the denominator of Apple's sales factor for each year of the Audit Period.

46. Apple disputes the Department's exclusion of "Other Income" from the denominator of the sales factor for all years in the Audit Period because the "Other Income" represents gross receipts received by Apple from transactions and activities in the regular course of its trade or business per Section 220.15(5), Florida Statutes, and Fla. Admin. Code Ann. 12C-1.0155(1).

ISSUE #4: INTEREST ON ASSESSMENT

47. Apple timely filed its original income tax returns.

48. The Department notified Apple of its intent to review the books and records for the Audit Period on July 20, 2021.

49. The Department concluded its field audit by issuing the Notice of Intent to Make Audit Changes on February 22, 2022. Apple did not request a conference with the auditor and the Department then issued its NOPA on April 4, 2022.

50. Apple timely filed its informal protest of the NOPA on June 30, 2022.

51. The Department did not issue its NOD until May 23, 2024 – twenty-three (23) months after the informal protest was filed.

52. Section 22.809(1), Florida Statutes states that "if any amount of tax imposed by this chapter is not paid on or before the date, determined without regard to any extensions, prescribed for payment of such tax, interest shall be paid in accordance with the provisions of s. 220.807 on the unpaid amount from such date to the date of payment."

53. Pursuant to Section 22.807, Florida Statutes, the rate of interest on tax assessments between June 30, 2022 (the date of the informal protest) and May 23, 2024 (the date of the NOD) ranges between 7% and 12%.²

54. The NOPA proposes an assessment of \$12,772,441 tax for the Audit Period. The interest on the proposed tax assessment which accrued during the 23 months that the Department was considering the informal protest is \$2,331,233. Interest has continued to accrue at \$2,449.51 daily.

55. Section 220.809(7), Florida Statutes allows the Department to settle or compromise interest imposed herein pursuant to Section 213.21, Florida Statutes.

² The applicable interest rates are as follows: from July 1, 2022 to December 31, 2022 – 7%; from January 1, 2023 to June 30, 2023 – 9%; from July 1, 2023 – December 31, 2023 – 11%; from January 1, 2024 to the date of this complaint – 12%.

56. Section 213.21(3)(a), Florida Statutes states "A taxpayer's liability for interest under any of the chapters specified in s. 72.011(1) shall be settled or compromised in whole or in part whenever or to the extent that the department determines that the delay in the determination of the amount due is attributable to the action or inaction of the department."

57. Section 213.21(2)(a), Florida Statutes states "The executive director of the department or his or her designee is authorized to enter into closing agreements with any taxpayer settling or compromising the taxpayer's liability for any tax, interest, or penalty assessed under any of the chapters specified in s. 72.011(1)."

COUNT ONE

THE DEPARTMENT UTILIZED AN INCORRECT APPORTIONMENT METHODOLOGY TO SOURCE APPLE'S SERVICE REVENUE FOR PURPOSES OF APPLE'S SALES FACTOR NUMERATOR

58. Apple realleges and reincorporates the allegations of paragraphs 1 through 57 as if fully set forth herein.

59. The COP Regulation provides the general rule for apportioning income received by a taxpayer for the performance of services partly within and outside Florida.

60. With respect to the Audit Period, there existed no Florida statute or Department administrative rule that expressly provided for the market sourcing of the Digital Services Revenue or Licensing Revenue for purposes of Section 220.15, Florida Statutes.

61. Apple was required to follow the COP Regulation for purposes of apportioning the Digital Services Revenue and Licensing Revenue.

62. The COP Regulation attributes Apple's Digital Services Revenue and Licensing Revenue to the location where the greater proportion of income producing activity occurs, based on the costs of performance. Fla. Admin. Code Ann. 12C-1.0155(1) states that income producing activity applies to each separate item of income and means "the transactions and activity directly engaged in by the taxpayer for the ultimate purpose of obtaining gains or profits."

63. The greater proportion of income producing activity directly engaged in by Apple relating to its receipt of the Digital Services Revenue and Licensing Revenue occurred (based on Apple's costs of performance) outside Florida and, accordingly, Apple correctly sourced this revenue outside Florida.

64. The Department's "market sourcing" apportionment approach for determining Apple's sales factor must be rejected. The Department's position is tethered to its erroneous belief that the phrase "each separate item of income" in Fla. Admin. Code Ann. 12C-1.0155(1) necessarily defines the "income producing activity" by reference to the customer's activity. This approach improperly ignores all activity directly engaged in by Apple to generate the Digital Services Revenue and Licensing Revenue as required by text of the COP Regulation.

65. The Department, incorrectly and without any factual basis or support, contends that Apple conducts income producing activities at customer locations without describing what activities Apple engages in at individual customer locations or what costs of performance are incurred by Apple in those instances and at locations from which customers make purchases or are billed recurring subscription fees.

66. The Department's position, which focuses solely on the activity of the customer, results in a "market sourcing" approach for the apportionment methodology, and renders moot much of the language in its own administrative rule. For this reason, the Assessment must be abated in full.

COUNT TWO

THE DEPARTMENT INCORRECTLY EXCLUDED SERVICE FEES FROM THE DENOMINATOR OF APPLE'S SEPTEMBER 30, 2017 AND SEPTEMBER 29, 2018 FLORIDA SALES FACTOR

67. Apple realleges and reincorporates the allegations of paragraphs 1 through 66 as if fully set forth herein.

68. Section 220.15(5), Florida Statutes defines "sales" for the sales factor as all gross receipts of the taxpayer except interest, dividends, rents, royalties and gross receipts from the sale, exchange, maturity, redemption or other disposition of securities.

69. Similarly, Fla. Admin. Code Ann. 12C-1.0155(1) defines "sales" as all gross receipts received by the taxpayer from transactions and activities in the regular course of its trade or business.

70. The Service Fees earned by Apple from the provision of the Services were gross receipts received by the taxpayer from transactions and activities in the regular course of Apple's business during the Audit Period.

71. These receipts are not classified as interest, dividends, rents, royalties or gross receipts from the sale, exchange, maturity, redemption or other disposition of securities.

72. Therefore, the Service Fees are "sales" pursuant to Florida Statutes and administrative rules, and as such, they are included in the Florida sales factor for all years of the Audit period.

73. The Department agreed that these Service Fees were "sales" and included them in Apple's sales factor denominator for the tax year ending September 28, 2019.

74. The Service Fees should likewise be deemed "sales" and included in Apple's sales factor denominator for the tax years ending September 30, 2017 and September 29, 2018.

COUNT THREE

THE DEPARTMENT INCORRECTLY EXCLUDED "OTHER INCOME" FROM THE DENOMINATOR OF APPLE'S FLORIDA SALES FACTOR

75. Apple realleges and reincorporates the allegations of paragraphs 1 through 74 as if fully set forth herein.

76. Section 220.15(5), Florida Statutes defines "sales" for the sales factor as all gross receipts of the taxpayer except interest, dividends, rents, royalties and gross receipts from the sale, exchange, maturity, redemption or other disposition of securities.

77. Similarly, Fla. Admin. Code Ann. 12C-1.0155(1) defines "sales" as all gross receipts received by the taxpayer from transactions and activities in the regular course of its trade or business.

78. The revenue identified by Apple as "Other Income" refers to gross receipts received by Apple from transactions and activities in the regular course of Apple's business during the Audit Period.

79. These receipts are not classified as interest, dividends, rents, royalties or gross receipts from the sale, exchange, maturity, redemption or other disposition of securities.

80. Therefore, receipts from "Other Income" are "sales" pursuant to Florida Statutes and administrative rules, and as such, must be included in Apple's sales factor denominator for all years in the Audit period.

COUNT FOUR

INTEREST ON ANY ASSESSMENT ULTIMATELY DEEMED DUE BY THIS COURT SHOULD BE PARTIALLY ABATED

81. Apple realleges and reincorporates the allegations of paragraphs 1 through 80 as if fully set forth herein.

82. Section 213.21(3)(a), Florida Statutes states "A taxpayer's liability for interest under any of the chapters specified in s. 72.011(1) shall be settled or compromised in whole or in part whenever or to the extent that the department determines that the delay in the determination of the amount due is attributable to the action or inaction of the department."

83. The Department took 23 months to address Apple's informal protest, and issue the NOD ("23 Month Period"). During the 23 Month Period, more than \$2.3 million of interest accrued on the assessed balance.

84. The 23 month delay in the Department's determination of the tax amount due (per the NOD) and upon which the interest at issue is based was attributable to the Department's inaction.

85. The Department did not exercise appropriate discretion with respect to abating in some or all of the interest that accrued during the 23 Month Period related to the informal protest.

86. This Court should require the Department to abate all interest accrued during the informal protest process in accordance with Section 213.21(3)(a), Florida Statutes.

WHEREFORE, Apple respectfully requests that judgment be entered against the Department and in favor of Apple:

- (1) invalidating the Assessment because Apple correctly employed the COP Regulation to derive the numerator its sales factor for apportionment purposes on its Florida corporate income tax returns for the Audit Period;
- (2) redetermining Florida taxable income by including Apple's Service Fees from its affiliates in the denominator of its Florida sales factor for all years in the Audit Period;
- (3) redetermining Florida taxable income by including Apple's "Other Income" in the denominator of its Florida sales factor for all years in the Audit Period;

(4) abating some or all of the interest on any assessment that is sustained by this Court; and

(4) granting such other relief as is just and equitable.

DATED this 10th day of July, 2024.

AKERMAN LLP

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Attorneys for Apple Inc.

Exhibit A



Florida Department of Revenue
Office of General Counsel

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

June 3, 2024

Ms. Lorie Fale, Esq.
Akerman LLP
98 SE 7th Street, Suite 1100
Miami, Florida 33131

Re: Apple, Inc.
FEI#: [REDACTED]
Bond Waiver Request
Audit# 200293876
Tax years ending 09/30/17 – 09/28/19
Tax Type: Corporate Income Tax

Dear Ms. Fale:

I am in receipt of your letter requesting a waiver of the provisions of s. 72.011(3)(b), F.S., on behalf of Apple, Inc. Ms. Isabel Nogues, an Assistant General Counsel with the Department, has reviewed the publicly available financial information of Apple, Inc. Based on that review and Isabel's recommendation, the Department is willing to waive the requirements of s. 72.011(3)(b), F.S., with respect to an action by Apple, Inc.

A copy of this letter should be attached to your complaint that is filed with the circuit court.

Should you have any questions, please give Isabel or me a call.

Sincerely,

Mark S. Hamilton
General Counsel

Exhibit B



NOTICE OF PROPOSED ASSESSMENT

04/04/2022

DR-831
R.01/13
Page 1 of 2

APPLE INC
1 INFINITE LOOP MS 38-3TX
CUPERTINO CA 95014-2083

Audit Number : 200293876
Business Partner : 628286
Tax : Corporate Income Tax
ID Number : XXXXXXXXXX
Audit Period : 09/30/2017, 09/29/2018, 09/28/2019

The *Notice of Proposed Assessment* ("Notice") identifies the deficiency resulting from an audit of your books and records for the audit period indicated. The Department has previously provided you with schedules of the various transactions supporting the basis for the proposed assessment.

Assessment Authority: Chapter 220, F.S.

Tax		\$	12,772,441.00
Penalty		\$	.00
Penalty - Fraud		\$	.00
Penalty - Other		\$	.00
Interest Through	04/04/2022	\$	3,044,190.35
Total Deficiency		\$	15,816,631.35
Less: Payment(s)		\$	.00
Less: Offset(s)		\$	.00
Balance Due		\$	15,816,631.35

Plus additional daily interest at \$2,449.51 per day from 04/05/2022, through the payment date. See Page 2, "Addendum to Notice of Proposed Assessment" for explanation of interest rates (if applicable).

If you do not agree with the proposed assessment, you may request a review through one of the following:

- ◆ informal protest
- ◆ administrative hearing
- ◆ judicial proceeding

The enclosed brochure provides you with the procedures for requesting a review.

If you file an **informal written protest**, you must file it with the Department no later than 06/03/2022, unless you request and receive an extension prior to this date. If you fail to file an informal written protest, the proposed assessment will become a FINAL ASSESSMENT on 06/03/2022.

If you request an **administrative hearing** or **judicial proceeding**, you must file your request no later than 08/02/2022 or 60 days from the date the assessment becomes a Final Assessment. Florida Statutes mandate this time limit and the Department cannot extend it. You must file the petition for an administrative hearing with the Department of Revenue. For judicial proceedings, you must file a complaint with the appropriate Clerk of the Court.

If a balance is due and you agree with the proposed assessment, please pay the balance due within 60 days from the notice date. Please return your payment in the enclosed envelope and include the NOPA remittance coupon.

The amount shown on this notice may not include: credits, payments, notices of tax action, delinquency notices or other billings previously issued by the Department.

NOTE: If you are protected by Federal Bankruptcy Law, you are not required to pay except as provided by Title 11 United States Code (U.S. Bankruptcy Code).

Refer questions and correspondence to:

Compliance Standards Process
P.O. BOX 5139
Tallahassee, FL 32314-5139
Phone: (850) 617-8565 Fax: (850) 245-5981



Addendum to Notice of Proposed Assessment
Schedule of Tax, Penalty and/or interest

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R.01/13
Page 2 of 2

APPLE INC
1 INFINITE LOOP MS 38-3TX
CUPERTINO CA 95014-2083

Audit Number : 200293876
Business Partner : 628286
Tax : Corporate Income Tax
ID Number : XXXXXXXXXX
Audit Period : 09/30/2017, 09/29/2018, 09/28/2019

I. 12% Interest Rate		II. Market Interest		III. Combined Liability			
Applied Period		Applied Period		Combined Applied Period			
Tax	Interest Through 04/04/2022	Tax	Interest Through 04/04/2022	Tax	Penalties	Interest Through 04/04/2022	Total
\$	\$	\$	\$	\$	\$	\$	\$
0.00	0.00	12,772,441	3,044,190.35	12,772,441	0.00	3,044,190.35	15,816,631.35
					Less Payments		(0.00)
					Offsets		0.00
					Balance Due		15,816,631.35

- I. Twelve (12) Percent Interest Rate: For taxes due on or before December 31, 1999, an interest rate of 12% per annum applies, except for Corporate Income and Emergency Excise Taxes. The additional daily interest amount for this portion of the liability is \$0.00.
- II. Market Interest Rate: For taxes due on or after January 1, 2000, a floating interest rate applies. This rate will be updated January 1 and July 1 of each year. The additional daily interest amount for this portion of the liability is \$2,449.51. Current and prior interest rates are posted on our Internet site at: www.floridarevenue.com or you can contact Taxpayer Services at 850-488-6800 and select Information on Taxes from the option menu.
- III. Combined Liability: This column combines columns I and II and represents the total tax, penalties and interest assessed. The combined daily interest amount is \$2,449.51. Please include additional interest accrued from 04/05/2022 through the date your payment is postmarked.

Refer questions and correspondence to:

Compliance Standards Process
Florida Department of Revenue
P.O. BOX 5139
Tallahassee, FL 32314-5139
Phone: (850) 617-8565 Fax: (850) 245-5981



Enforcement Remittance Coupon
NOPA Remittance Coupon

APPLE INC
1 INFINITE LOOP MS 38-3TX
CUPERTINO CA 95014-2083

Business Partner : 628286
Service Notification : 200293876
Period : 09/30/2017 - 09/28/2019
Tax Type : Corporate Income Tax

To ensure proper credit, please detach and include the preprinted remittance coupon below when submitting payments.

The amount of interest owed has been calculated through the Interest Through date shown on the NOPA. When submitting your payment, please remember to include the additional interest amount accrued since that date.

To calculate the additional interest amount, multiply the number of days since the Interest through date times the daily interest amount. The daily interest amount is also shown on the NOPA.

You can pay bills online for many taxes using your credit card or the ACH-Debit method at www.floridarevenue.com.

DR-839
N.10/03

Detach For processing
NOPA Remittance Coupon

Service Center: Los Angeles
Business Partner: 628286
Audit Number 200293876

Make check or money order payable to:
Florida Department of Revenue
5050 West Tennessee Street
Tallahassee, Florida 32399-0100

Check Number:
Tax Type: Corporate Income Tax
Remittance Total:

APPLE INC
1 INFINITE LOOP MS 38-3TX
CUPERTINO CA 95014-2083

0600 0 20190928 0002005059 8 6200293876 0000 5



Tax Audit Satisfaction Survey

The Florida Department of Revenue invites you to complete the online *Tax Audit Satisfaction Survey* to help the Department identify ways to improve service to taxpayers. This survey is an opportunity to provide feedback on your recent tax audit experience. Your input is important to us. To access the survey, place the following web address in your browser's access bar:

<https://fdor-audit.questionpro.com>

When you open the survey, you will be asked to enter the three numbers listed below. This information will enable you to complete and submit the survey.

Business Partner Number: 628286

Notification Number: 200293876

Respondent Code: 44

As you complete the survey, you will be asked to provide the following information:

Tax Audited: Corporate Income Tax

Service Center: Los Angeles Service Center

If you need technical assistance accessing the survey, please email Douglas Charity at douglas.charity@floridarevenue.com.

Thank you.

Exhibit C



Florida Department of Revenue
Technical Assistance and Dispute Resolution

Jim Zingale
Executive Director

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May 23, 2024

LORIE FALE
AKERMAN LLP
98 SE 7TH STREET, SUITE 1100
MIAMI, FL 33131

lorie.fale@akerman.com

Re: Notice of Decision

APPLE INC

BPN: 0000628286

Audit #: 200293876

Corporate Income Tax

Period: 09/30/2017 - 09/28/2019

Proposed Assessment Amount:	\$	15,816,631.35
Sustained Amount:	\$	14,805,469.00
Balance Due:	*	\$ 17,174,510.07

* Includes payments and updated interest through May 22, 2024. Interest continues to accrue at \$ 3,904.37 per day until the postmark date of payment. Daily interest is subject to change every January 1 and July 1.

Dear Ms. Fale:

This is the Department's response to the protest letter postmarked June 30, 2022, filed against the referenced assessment. The letter of protest, the case file, and other available information have been carefully reviewed. This reply constitutes the issuance of our Notice of Decision, pursuant to the provisions of Rule 12-6.003, Florida Administrative Code (F.A.C.). It represents our position based on applicable law to the issues under protest.

ISSUES

Whether certain intercompany sales should be included in the denominator of the sales factor?

Whether the market sourcing approach should be used in determining the Florida numerator?

FACTS

Taxpayer is incorporated and domiciled in California. Taxpayer is an American multinational company engaged in the design, manufacture and marketing of smart phones, personal computers, tablets, wearables, and accessories, and sells a variety of related services. A wholly owned subsidiary of Apple Inc. and Subsidiaries, Taxpayer files a separate Florida corporate income tax return.

A Notice of Intent to Audit Books and Records (DR-840) was issued to Taxpayer on July 20, 2021, for the audit periods of September 30, 2017, through September 28, 2019. A Notice of Intent to Make Audit Changes (DR-1215) was issued dated November 5, 2021, with audit adjustments to the foreign source income subtraction, sales factor, and Florida Voluntary Cleanup Tax Credit. A taxpayer conference was held in the field on January 24, 2022, to discuss disagreements with audit adjustments to the foreign source income subtraction and sales factor. Based on additional information provided by the taxpayer a revised DR-1215 was issued dated February 25, 2022, revising the audit adjustments for foreign source income and sustaining audit adjustments to the sales factor.

Taxpayer was issued a Notice of Proposed Assessment (NOPA) on April 4, 2022, for total tax and interest of \$15,816,631.35. Taxpayer filed a timely protest dated June 30, 2022.

TAXPAYER ARGUMENT

In its protest letter Taxpayer disputes audit adjustments to the sales factor, as detailed below.

- Intercompany Sales – Audit adjustments removed Legal Entity Adjustment revenues from the sales factor denominator for the year ended September 28, 2019¹. Legal Entity Adjustment revenues are intercompany service revenues paid to Taxpayer by foreign related parties, pursuant to a cost-plus expense reimbursement agreement and are treated as revenue for federal income tax purposes. Because these revenues are not related to the “exchange, maturity, redemption, or other disposition of securities, or any of the other intangibles referenced by Section 220.15(1), Florida Statutes (F.S.), they are not excludable from Taxpayer’s sales factor denominator pursuant to Section 220.15(1), F.S. Further, Taxpayer is requesting that its Legal Entity Adjustment

¹ For the years ended September 30, 2017, and September 29, 2018, Taxpayer did not include Legal Entity Adjustment revenues in the denominator of the sales factor.

revenues amounts be included in the denominator of Taxpayer's sale factor for tax years ending September 30, 2017, and September 29, 2018.

- Market-sourcing approach - The Department's auditor has taken the position that Taxpayer's "iTunes Category," "Licensing," and "Apps and iBooks," revenues should be sourced to Florida if Taxpayer's customer is located in Florida. Taxpayer asserts that Rule 12C-1.0155(2)(l), F.A.C., is applicable to these sales and under a plain reading of Rule 12C-1.0155(2)(l), F.A.C., the greater proportion of its income producing activity occurred outside of Florida based on cost of performance. As a consequence, the revenue at issue cannot be sourced to Florida for sales factor purposes.
- Taxpayer requests the Department accept a correction to Taxpayer's Florida sales factor calculation for tax year ending September 28, 2019, to include sales returns and allowances in both the numerator and denominator of the sales factor.

LAW & DISCUSSION

Section 220.15, F.S., provides the formula for apportioning a corporation's adjusted federal income for taxation by the state of Florida. Apportionment of income is a method of dividing the tax based amongst jurisdictions in which a taxpayer does business and is subject to taxation. The apportionment is determined by multiplying the corporation's adjusted federal income by certain fractions, the numerator and denominator of which are defined by statutes. Fractions are created for each of three factors: the sales factor, the property factor, and the payroll factor. The issues at dispute regard audit adjustments to the sales factor.

Section 220.15(5)(a), F.S., states in part:

- (5) The sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.
- (a) As used in this subsection, the term "sales" means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities. However:
1. Rental income is included in the term if a significant portion of the taxpayer's business consists of leasing or renting real or tangible personal property; and
 2. Royalty income is included in the term if a significant portion of the taxpayer's business consists of dealing in or with the production, exploration, or development of minerals.

Taxpayer disputes audit adjustments to the sales factor denominator which removed certain intercompany transactions termed "Legal Entity Adjustment" from the sales factor in the 2019 tax year. Taxpayer further asserts that Legal Entity Adjustments transactions should also be included in the sales factor for the 2017 and 2018 tax years sales factor, despite not being included in the original return filings. Legal Entity Adjustments are amounts paid by foreign

related parties to Taxpayer for various services rendered, pursuant to cost-plus expense reimbursement service agreements. The amounts were reported as revenue for federal income tax purposes for the 2019 tax year and a contra expense for the 2017 and 2018 tax years. The types of services performed under the agreements are summarized below.

- Sales Support Services include the creation, development, and production of sales channel programs; advice and assistance in relation to new product introductions; development and provision of sales training; and other services that provide a benefit or may be required by the recipient.
- Manufacturing Support Services include engineering operations; product operations; quality control; procurement services; demand planning; logistics; data center management; and other services that may be required by the recipient.
- Marketing Support Services include the creation, development, and production of marketing strategies, programs, and advertising campaigns; advice in relation to the adoption of marketing strategies, programs, or advertising campaigns, development and production of marketing communications and collateral or visual displays; performance of market research and analysis; and other services that provide a benefit or may be required by the recipient.
- General Support Services include management services; information technology services; finance and accounting services; facilities support services; human resources services; regulatory and quality assurance services; legal services; education and training services; and other general, administrative and support services as agreed to by the parties. The provision of such services involves allocation of employees as needed to carry out the services, ensuring that all services are carried out by properly trained and skilled employees, attending meetings necessary to discuss administrative matters, keeping proper books, records, documents, and information relating to services, and making these books available at any time for inspection by the recipient of the services.

The auditor excluded these amounts from the sales factor for the 2019 tax year because they were not a significant part of the taxpayer's normal core business. Rule 12C-1.0155(1) F.A.C., states that for purposes of the sales factor of the apportionment formula, the term "sales" means all gross receipts received by the taxpayer from transactions and activities in the regular course of its trade or business. Section 220.43(1), F.S., requires each taxpayer making a Florida return to take into account items of income, deduction, and exclusion in the same manner and amounts as reflected in the taxpayer's federal income tax return for the same taxable year.

Generally, sales include all gross receipts which don't fall under the specific statutory exclusions per Section 220.15(5)(a), F.S., but Florida Rules provide for other exclusions. Rule 12C-1.0155(1)(i), F.A.C., states that "Generally, management fees charged from a parent corporation to a subsidiary are excluded from the sales factor. If the fees are just a pass-through of corporate overhead expenditures, the fees will not be included in "sales." Intercompany sales when a consolidated return is filed may be excluded if not meeting the "indicia of a sale". Income from intangible personal property is not includible when it cannot

readily be attributed to any particular income producing activity of the taxpayer. These exclusions and others are made to reflect the overarching goal of apportionment to fairly represent the extent of a taxpayer's tax base attributable to this state. This is supported by Section 220.13(1)(b)6., F.S., which states that items "directly related to an increment of gross receipts or income which is deduction, subtracted, or otherwise excluded in determining adjusted federal income shall be excluded from both the numerator and denominator of such apportionment factor."

Section 220.15(5), F.S., provides the "sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the taxable year or period, and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period. Generally speaking, the sales factor should reflect the value of the markets for a taxpayer's goods and services since its purpose is to balance the property and payroll factors by giving weight to elements of the business not reflected in those factors. See generally, *Altman and Keesling*, Allocation of Income in State Income (2d Ed. 1950). It is generally accepted that the sales factor represents the contribution of the market to the profits of the corporation.

The concept of apportionment is distinguishable from taxability since apportionment is a measure of business activity. A state may fairly apportion income as long as its taxing scheme meets the requirements of the Due Process Clause, and the income attributed to the state for tax purposes must be rationally related to values.

In order for an amount to be includable in the sales factor it must first be presented on the federal income tax return as a revenue item, it must meet the indicia of a sale and it should not be a mere reimbursement of expenses.

Florida accepts amounts reported and represented on the federal income tax return. If the amount is reported as a contra expense rather than a revenue it's not includible because for a taxpayer to include its income as a "gross receipt" in the Florida sales factor, the income must be a transaction that produces business income and was included in determining adjusted federal taxable income.

Rule 12C-1.0155(1)(j), F.A.C., provides factors that may indicate that those amounts may be included as sales. Those factors are:

1. Amounts called sales on the books;
2. Amounts invoiced or sold to related party;
3. Actual payment from a related party, or
4. Amounts included in consolidated federal income tax as "gross receipts or sales".

In *Department of Revenue v. Anheuser-Bush*², *Metal Container Corp.* ("MCC") manufactured beer cans for Anheuser-Busch Inc. ("ABI"). The two corporations were affiliates and filed a

² 527 So.2d 877 (1988 Fla. 1st DCA)

consolidated corporate income tax return for both Federal and Florida purposes. When MCC transferred the beer cans to ABI, the transactions were invoiced to ABI. ABI made payments indirectly to MCC by journal entry, and MCC delivered the cans to ABI. ABI and MCC argued that they were one taxpayer for purposes of apportionment and so the intercompany transactions between them should be eliminated from the sales factor. The Appellate Court disagreed and stated that “this overlooks the well-established law that each of the two or more corporations joining in a consolidated return is none the less a taxpayer.” The Appellate Court found the “indicia of a sale” sufficient to constitute a sale, and stated:

Without unduly belaboring the point, we find that unlike the situation in *Coulter*, the indicia of a sale are present in this case. The cans were “invoiced” as “sold to” Anheuser-Busch. Delivery of the cans to Anheuser-Busch by MCC is uncontroverted. Finally, we find that Anheuser-Busch’s cash advances to MCC and payment to MCC’s third party obligations constitute sufficient evidence of payment. We note, significantly, that the transactions involved meet the sales destination test set forth in section 214.71(3)(a)1.

Anheuser-Busch reviewed all of the indicia previously described in Coulter Electronics v. Department of Revenue and noted that the treatment of the transaction for federal tax purposes in its consolidated returns is “particularly significant” in that it adds confirmation that such delivery of goods for a stated price constitutes true gross receipts and “sales” for federal tax purposes and accordingly for Florida apportionment purposes. Consequently, the transaction are accounted for Florida tax purposes if such transaction are realized and treated as intercompany sales for federal tax purposes.

Anheuser-Busch addressed the failure of the taxpayer to report the so-called intercompany transactions as “gross receipts” on the taxpayer’s federal consolidated federal corporate income tax return. Anheuser-Busch stated:

Although they [intercompany transactions] were called “sales” on their books, this court found that these transactions did not have the indicia of sale, transfer of title, delivery, and payment. More importantly, for purposes of comparison with the can transactions in this case, the intercompany sales in Coulter were “disregarded for the purpose of federal income tax” 365 So.2d at 808. Accordingly, the court held that these transactions did not constitute sales within the meaning of section 214.71(3) and 220.15(1) and thus were not required to be included in Coulter’s sales factor for purposes of the corporate income tax apportionment formula.

Anheuser-Busch continued in its analysis of the federal reporting of “gross receipts” of MCC, the intercompany seller, as used in the computation of separate taxable income as part of the federal consolidated return, and stated the following:

In determining the best evidence of the gross receipts of these two taxpayers, Anheuser-Busch's treatment of the sale of these beer cans in its corporate income tax return (Form 1120) is particularly significant.

In the consolidated federal income tax return filed each year on behalf of Anheuser-Busch's affiliated group, on Form 1120, line 1, captioned "1(a) Gross receipts or sales" the gross receipts of all included corporations were aggregated. In an attached taxpayer schedule, which was required to be filed, entitled "consolidated Profit and Loss Summary." The amount of "gross receipts" was reported separately for each included corporation and the sum of the "gross receipts" indicated for each corporation was reconciled to the total amount on line 1(a) of Form 1120. In each year, the amount of "gross receipts" federally reported as being those of MCC represented the annual aggregation of the "total amounts reported by Anheuser-Busch in its federal income tax returns for the years in question and were not eliminated in any manner from the consolidated "gross receipts or sales" reflected therein.

However, in Anheuser-Busch's consolidated Florida corporate tax returns for each of these tax years, in the computation of the Florida sales factor used for the Florida apportionment purposes, these gross receipts attributable to MCC in the federal income tax returns were omitted from the sales factor. In computing its proposed assessments, DOR restored these gross receipts to the sales factor denominator as representing gross receipts from all sales of beer cans by MCC to Anheuser-Busch.

Accordingly, Anheuser-Busch held that the "best evidence" of the gross receipts of each entity is derived from the federal consolidated corporate income tax return and related schedules to such return. This information is "particularly significant" in determining the intercompany gross receipts and intercompany income included in the intercompany seller's separate taxable income. Where MCC, the intercompany seller in the Anheuser-Busch case included these intercompany receipts in its separate taxable income, it was held by the appellate court such gross receipts should be included in the sales factor.

While this protest does not involve a Florida consolidated filing, the principles for recognizing a sale in the sales factor are applicable in that we would look to how the item is presented in the federal return, the indicia of sale, and representation of related income in taxable income. In this case for the 2019 tax year, the amounts attributable to Legal Entity Adjustment are included in income (revenue) amounts on the federal return. They meet the indicia of sale and taxpayer has represented that they are in accordance with arm's length section 482, IRC, requirements and therefore includible in the sales factor. The 2017 and 2018 years are contra expenses and should not be included in the sales factor.

The reason for including intercompany sales under certain circumstances is to equitably apportion a taxpayer's business activities. The purpose of apportionment is to fairly divide a taxpayer's income amongst the states. Apportionment looks to the business activities of a taxpayer in making this measurement. The states usually measure the business activities of a

taxpayer by the use of a three-factor apportionment formula—a combination of a taxpayer’s payroll, property, and gross receipts (sales). Apportionment is merely a method to fairly divide a multi-state entity’s income among the States in which it conducts business. Apportionment is not an exact science, but it has been widely accepted by both state and federal courts as a reasonable approximation for this purpose.

Taxpayer disputes that auditor’s position that Taxpayer’s “iTunes Category,” “Licensing,” and “Apps and iBooks,” revenues should be sourced to Florida if Taxpayer’s customer is located in Florida.

A state is allowed by the U.S. Constitution to tax the income of a multistate corporation if the state applies a formula that fairly apportions a percentage of the corporation’s income attributable to business activities inside and outside the state. Section 220.02(1), F.S., provides that it is the intent of the Florida Legislature to impose a corporate income tax on every taxpayer in each taxable year for the privilege of conducting business, deriving income, or being incorporated in this state.

Pursuant to Rule 12C-1.0155(2)(I), F.A.C., sales are attributed to Florida if the income producing activity which gave rise to the gross receipt is wholly performed within Florida. “Income producing activity” is defined as “the transaction and activity directly engaged in by the taxpayer for the ultimate purpose of obtaining gains or profits” and it “applies to each separate item of income”. If the income producing activity is not wholly performed within Florida for a separate item of income, it is necessary to conduct a cost of performance analysis.

The Department takes the position that “item of income” means an individual exchange between a buyer and seller which results in a separate increment of income. The Department’s position regarding the meaning of “item of income” is not inconsistent with the test of the rule in its context, or with the statute, or with any other source of law.

The narrow interpretation of “item of income” necessarily limits the definition of “income producing activity.” To identify the income producing activity, we must identify for each “item of income” the “transactions and activity directly engaged in by the taxpayer in the regular course of its trade of business for the ultimate purpose of obtaining gains or profit.” The analysis thus generally begins with each item of income—each individual sale—and determines the relevant direct transaction/activity associated with that sale. The result is an “income producing activity.”

In this case based on the best available information, the income producing activity is sourced to the customer location because the services are consumed by the customers. To the extent that a separate income producing activity is identified to a Florida customer, that income producing activity occurs exclusively in Florida, therefore the cost of performance analysis is not necessary. Therefore, this issue is sustained.

This methodology is consistent with the sourcing of other types of sales under Rule 12C-1.0155, F.A.C. For example, under Rule 12C-1.0155(2)(a), F.A.C., tangible personal property is sourced to Florida if delivered or shipped to a Florida recipient, even if ordered from outside of Florida and despite the fact that the majority of the cost occur outside of Florida. Under Rule 12C-1.0155(2)(i), F.A.C., television and radio broadcasting gross receipts, including advertising revenue, are sourced to Florida based on the percentage of the Florida audience to total audience, regardless of where most of the cost occur or the location of the customer. They both indicate that the sales are to be sourced where goods or services are consumed based on the activity that creates the income.

Taxpayer requested that the Department accept a correction to Taxpayer's sales factor calculation for tax year ending September 28, 2019, to include sales returns and allowance in both the numerator and denominator of the sales factor for that year. Taxpayer inadvertently excluded these amounts from its Florida sales factor for that year. The Department accepts these corrections.

CONCLUSION

Based on the discussion above, the sales factor for the 2019 tax year is adjusted to include amounts attribute to Legal Entity Adjustments and to report gross sales. Audit adjustments increasing the numerator of the sales factor based on the location of the customer are sustained.

Enclosed for your convenience is an audit remittance coupon. Payment, including interest to the postmark date of payment, should be returned in the enclosed envelope, along with the audit remittance coupon. The check should reflect the audit number.

TAXPAYER APPEAL RIGHTS

This Notice of Decision constitutes the final position of the Department unless a Petition for Reconsideration is filed on a timely basis, in which event the Notice of Reconsideration will be the Department's final position. The requirements for a Petition for Reconsideration are set forth below.

Pursuant to Section 72.011(2), F.S., and Rule Chapter 12-6, F.A.C., the assessment is final as of the date of this Notice of Decision unless you file a written Petition for Reconsideration postmarked within thirty (30) days of the date of this Notice of Decision and addressed to Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, FL 32314-7443. The Petition for Reconsideration must contain new facts or arguments; otherwise, it is subject to dismissal.

Absent a timely-filed Petition for Reconsideration, the assessment reflected in the Notice of Decision is final, and you have three alternatives for further review:

1) Pursuant to Section 72.011, F.S., and Rule Chapter 12-6, F.A.C., you may contest the assessment in circuit court by filing a complaint with the clerk of the court. THE COMPLAINT MUST BE RECEIVED BY THE CLERK OF THE CIRCUIT COURT WITHIN SIXTY (60) DAYS OF THE DATE OF THIS NOTICE OF DECISION. Section 72.011(3), F.S., provides that no circuit court action may be brought unless you pay to the Department the amount of taxes, penalties, and accrued interest assessed by the Department that are uncontested and tender or post a bond for the remaining disputed amounts unless a waiver is granted, as provided in that section. Failure to pay the uncontested amounts will result in the dismissal of the action and imposition of an additional penalty in the amount of twenty-five percent (25%) of the tax assessed. The requirements of Chapter 72, F.S., are jurisdictional;

2) Pursuant to Sections 72.011, 120.569, 120.57, and 120.80(14), F.S., and Rule Chapter 12-6, F.A.C., you may contest the assessment in an administrative forum by filing a petition for a Chapter 120 administrative hearing with the Department of Revenue, Office of General Counsel, Post Office Box 6668, Tallahassee, FL 32314-6668. THE PETITION MUST BE RECEIVED BY THE DEPARTMENT WITHIN SIXTY (60) DAYS OF THE DATE OF THIS NOTICE OF DECISION. The petition should conform to the requirements of the Uniform Rules promulgated pursuant to Section 120.54(5), F.S. Section 120.80(14), F.S., provides that before you file a petition under Chapter 120, F.S., you must pay to the Department the amount of taxes, penalties, and accrued interest that are not being contested. Failure to pay those amounts will result in the dismissal of the petition and imposition of an additional penalty in the amount of twenty-five percent (25%) of the tax assessed. Mediation pursuant to Section 120.573, F.S., is not available. The requirements of Section 72.011(2) and (3)(a), F.S., are jurisdictional for any action contesting an assessment or refund denial under Chapter 120, F.S.; OR

3) Pursuant to Section 120.68, F.S., you may contest the assessment in the appropriate district court of appeal by filing a Notice of Appeal meeting the requirements of Rule 9.110, Florida Rules of Appellate Procedure, with i) the Clerk of the Department of Revenue, Office of General Counsel, Post Office Box 6668, Tallahassee, FL 32314-6668 and ii) with the clerk of the appropriate district court of appeal, accompanied by the applicable filing fee. THE NOTICE OF APPEAL MUST BE FILED WITH BOTH THE DISTRICT COURT OF APPEAL AND THE DEPARTMENT OF REVENUE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS NOTICE OF DECISION.

Should you have any further questions concerning this matter, please do not hesitate to contact me.

Sincerely,

William Roberts

William Roberts

Tax Conferee

Technical Assistance & Dispute Resolution

(850)717-7658

Enclosure: Audit Remittance Coupon

CC: Chris Berwick, Apple Inc, 1 Infinite Loop MS 38-3TX, Cupertino, CA 95014-2083

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT

Persons needing an accommodation to participate in any proceeding before the Technical Assistance and Dispute Resolution Office should contact that office at 850-617-8346, or you may also call via the Florida Relay System at 800-955-8770, at least five working days before such proceeding.



Florida Department of Revenue
Technical Assistance and Dispute Resolution

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

TADR Satisfaction Survey

The Florida Department of Revenue invites you to complete the online TADR Satisfaction Survey to help us identify ways to improve our service to taxpayers. The survey is an opportunity to provide feedback on your recent experience with the Department's office of Technical Assistance and Dispute Resolution (TADR). To access the survey, place the following address in your browser's access bar:

<https://tadr.questionpro.com>

When you open the survey, you'll be asked to enter the following information. This information will enable you to complete and submit the survey.

Notification number: 200293876

Respondent code: 44

Tax type: Corporate Income Tax

Correspondence type: Informal Protest

If you need technical assistance accessing the survey, please email Douglas Charity at douglas.charity@floridarevenue.com.

Thank you.



DR-839
N. 05/04

Audit Remittance Coupon

May 22, 2024

C/O LORI FALE
APPLE INC
98 SE 7TH ST STE 100
MIAMI FL 33131-3522

Business Partner: 628286
Audit Number : 200293876
Audit Period : 09/30/2017, 09/29/2018,
09/28/2019
Tax Type : Corporate Income Tax

To ensure proper credit, please detach and include the preprinted remittance coupon below when submitting payments.

If additional interest is applicable, please refer to the additional interest instructions on the enclosed correspondence.

You can pay bills online for many taxes using your credit card or the ACH-Debit method at www.myflorida.com/dor.

DR-839
N. 05/04

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Make check or money order payable to:
Florida Department of Revenue
5050 West Tennessee Street
Tallahassee, Florida 32399-0100

Service Center Los Angeles Service Center
Business Partner 628286
Audit Number 200293876

Check Number
Tax Type Corporate Income Tax
Remittance Total .

C/O LORI FALE
APPLE INC
98 SE 7TH ST STE 100
MIAMI FL 33131-3522

0600 0 20190928 0002005059 8 6200293876 0000 5