



This Week in State Tax (TWIST)

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PENNSYLVANIA



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Pennsylvania: Electricity Sourced as Sale of Tangible Personal Property

The Pennsylvania Department of Revenue recently announced that it will treat electricity as tangible personal property for the purpose of apportioning income under the state's Corporate Net Income Tax (CNIT). Prior to announcing this decision, the Department had identified three methods by which receipts relating to electricity are treated in other states: (1) as receipts relating to tangible personal property; (2) as receipts relating to a service; or (3) as receipts relating to intangible property. The Department first repeated its previously stated position that a sale of electricity more closely resembles the sale of a commodity than of a service. The Department then declared its intention to conform to recent decisions of the Board of Finance and Revenue by treating electricity as tangible personal property (rather than as intangible property.) Under this determination, receipts relating to the provision of electricity will be sourced to Pennsylvania if the electricity is delivered or shipped to a purchaser within Pennsylvania, regardless of the f.o.b. point or other conditions of the sale. The Department also clarified that receipts earned by partnerships would flow up to corporate partners in the same manner as any other sale of tangible personal property. The Department intends to follow this rule for all open CNIT periods. Please contact [Mark Achord](#) with questions on [Corporation Tax Bulletin No. 2023-01](#).



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