

Gross Receipts:

Ohio Commercial Activity Tax Ruling Addresses Sourcing of Various Service Revenue Streams

Case No. 2015-263, Ohio BTA (4/5/21). In an Ohio commercial activity tax (CAT) ruling involving a combined reporting taxpayer that attempted to source some of its nationwide service revenue streams (including broadcast receipts, media revenue, license fees and sponsor fees) based upon its own proposed sourcing methodology, which resulted in almost no revenue being sourced to Ohio, the Ohio Board of Tax Appeals (BTA) agreed with the Ohio Tax Commissioner (Commissioner) that the taxpayer's proposed methodology:

[URL: https://ohio-bta.modria.com/casedetails/504066](https://ohio-bta.modria.com/casedetails/504066)

1. Did *not* reflect the correct situs of the receipts, and
2. Failed to situs the intangible receipts to Ohio in the proportion of a purchaser's benefit in Ohio compared to its benefit everywhere.

In doing so, the BTA agreed with the Commissioner that the taxpayer's proposed sourcing methodology was not reasonable in that it largely focused on the benefit that the taxpayer receives and the location where it receives such benefit rather than the use, or right to use, of the purchasers. To this end, the BTA agreed with Commissioner's sourcing determinations under state law that allocated some of the taxpayer's revenue streams at issue based upon population and "Nielsen Ratings" – deeming them reasonable and lawful under the facts.

Note that the BTA distinguished this case from an Ohio Supreme Court ruling from 2020 [see *Slip Op. No. 2020-Ohio-4594*, Ohio (9/29/20) for details on this 2020 decision], which held that the gross receipts from a dealer's sale of security monitoring contracts should be sourced outside of Ohio under the facts and thus were *not* subject to the CAT, because such receipts must be sourced to the location where the company realized the benefit derived from purchasing the intangible contract rights rather than to where the underlying Ohio customers received the benefit of the company's services. Please contact us with any questions.

[URL: http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-4594.pdf](http://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-4594.pdf)

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