

## Income/Franchise:

### Vermont: US Supreme Court Denies Review of Case Allocating Capital Gain to Commercial Domicile

*Docket No. 20-1159, US (cert denied 5/17/21).* The US Supreme Court has denied the taxpayer's request for it to review the Vermont Supreme Court's 2020 ruling in a case affirming that a telecommunications company's capital gain from the sale of certain Federal Communications Commission (FCC) licenses constituted nonbusiness income allocable entirely to the company's in-state commercial domicile, rather than to an out-of-state location [see Case No. 2019-280, Vt. (10/9/20) for more details on this ruling]. In its petition for review, the taxpayer had asked the Court to consider whether the Vermont Supreme Court erred in holding that a federal license, that can be used only in one state, lacks a situs in that state under the 1937 *Whitney* case's interpretation of the federal due process principles governing state taxation. In doing so, the taxpayer had explained that even though the licenses at issue granted rights to broadcast exclusively in New York, the Vermont Supreme Court essentially held that they were not "localized" in New York and thus had no "situs" given that the FCC licenses were created by federal law rather than state law. Please contact us with any questions.

**URL:** <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/20-1159.html>

**URL:** <https://www.vermontjudiciary.org/sites/default/files/documents/op19-280.pdf>

— Mike Degulis (Boston)  
Principal  
Deloitte Tax LLP  
mdegulis@deloitte.com

Alexis Morrison-Howe (Boston)  
Principal  
Deloitte Tax LLP  
alhowe@deloitte.com

Jane Lodha (Boston)  
Senior Manager  
Deloitte Tax LLP  
jixin@deloitte.com

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