

## Sales/Use/Indirect:

### Washington Appellate Court Rules Against B&O Taxpayer that Used “Look-Through” Sourcing Approach

*Case No. 54959-0-II*, Wash. Ct. App. (12/14/21). In a published opinion involving the sourcing of an interior design firm’s service income for Washington business and occupation (B&O) tax purposes, a Washington Court of Appeals (Court) affirmed a trial court’s order granting the Washington Department of Revenue’s (Department) motion for summary judgment and denying the firm’s cross-motion for summary judgment, concluding that the Department properly apportioned the firm’s service income to Washington as a matter of law. In doing so, the Court reasoned that no genuine issue of material fact remains as to whether an in-state airplane manufacturer was the design firm’s “customer” and that this manufacturer received the “benefit” of the firm’s design services in Washington. Employing a “look-through” approach to sourcing and apportionment under Wash. Admin. Code section 458-20-19402 (Rule 19402) for B&O tax purposes, the design firm unsuccessfully claimed that its income should have been apportioned to the locations that the underlying airline companies used or received the aircraft interiors rather than to Washington. However, the Court explained that such interpretation of Rule 19402 “fails to give effect to the identity of the taxpayer’s customer, which is required for the apportionment analysis” and thus such interpretation is “misguided.” A dissenting opinion follows. Please contact us with any questions.

**URL:** <https://www.courts.wa.gov/opinions/pdf/D2%2054959-0-II%20Published%20Opinion.pdf>

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