

Income/Franchise:

Texas Supreme Court Rules for Taxpayer in Case on Sourcing Satellite Radio Subscription Receipts

Case No. 20-0462, Tex. (3/25/22). The Texas Supreme Court (Court) reversed the judgment of the Texas Court of Appeals' franchise tax ruling from 2020 concerning sales factor sourcing [see previously issued Multistate Tax Alert for more details on this 2020 ruling], which had held in favor of the Texas Comptroller of Public Accounts that the "receipt-producing, end-product act" that allowed each customer to receive a satellite radio subscription service's programming effectively occurred at the customer's residence. Instead, the Court agreed with the taxpayer and the Texas District Court ruling from 2018, which had allowed the taxpayer to apportion its subscription receipts for Texas franchise tax purposes based on the location where the taxpayer produced the satellite programming services [see previously issued Multistate Tax Alert for more details on this 2018 lower court ruling]. As a result of the Court's decision, the case has been remanded to the Texas Court of Appeals to determine the cost of performing the taxpayer's services in Texas.

URL: <https://search.txcourts.gov/Case.aspx?cn=20-0462&coa=cossup>

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/texas-franchise-tax-apportionment.html?id=us:2em:3na:stm:awa:tax:040122&sfid=7015Y000003WdFdQAK>

URL: <https://www2.deloitte.com/us/en/pages/tax/articles/texas-district-court-apportionment-based-on-location-of-production-activities-and-fair-value-of-services-performed-in-texas.html?id=us:2em:3na:stm:awa:tax:040122&sfid=7015Y000003WdFdQAK>

See forthcoming Multistate Tax Alert for more details on this recent decision, including some related taxpayer considerations, and please contact us with any questions in the meantime.

— Robert Topp (Houston)
Managing Director
Deloitte Tax LLP
rtopp@deloitte.com

Grace Taylor (Houston)
Senior Manager
Deloitte Tax LLP
grtaylor@deloitte.com

This document contains general information only and Deloitte is not, by means of this document, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This document is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Deloitte shall not be responsible for any loss sustained by any person who relies on this document.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.