

Income/Franchise:

New York: Affiliate's Income Must Be Included on Combined Return but Bad Debt Deductions are Proper

Determination DTA No. 828931, N.Y. Div. of Tax App., ALJ Division (7/7/22). An administrative law judge (ALJ) with the New York Division of Tax Appeals held that for Article 9-A business corporation franchise tax purposes, the New York Division of Taxation properly determined that a taxpayer could *not* remove from its combined returns for the years at issue a subsidiary's pro-rated Internal Revenue Code section 311(b) gain that had been deferred under federal consolidated return rules in an earlier year in which the subsidiary was not part of the taxpayer's combined filing group. In doing so, the ALJ explained that under the taxpayer's method of accounting for federal income tax purposes, the income from the intercorporate transaction was included on a deferred basis, and state law requires the taxpayer to report the income on the same deferred basis for its Article 9-A combined returns as reported on the consolidated federal returns. The ALJ did hold in the taxpayer's favor on the issue of whether it had met its burden of proving entitlement to certain deductions for bad debt expenses related to credit cards issued by a subsidiary, noting that the Department stipulated that the Internal Revenue Service had examined and accepted the bad debt expense deductions for the years at issue. As such, the ALJ stated that the federal audit established that the taxpayer's deduction of bad debt expenses resulted in a proper reflection of income. Please contact us with any questions.

URL: <https://www.dta.ny.gov/pdf/determinations/828931.det.pdf>

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