

## Sales/Use/Indirect:

### South Carolina Supreme Court Affirms Bookseller's Membership Fees are Part of Taxable Sales of TPP

*Case No. 2020-1102, S.C. (9/14/22).* The South Carolina Supreme Court (Court) affirmed a South Carolina Court of Appeals ruling from 2020 [see *Case No. 2017-001519, S.C. Ct. App. (4/29/20)* for more details on the 2020 ruling], which held that a nationwide bookseller's intangible "club membership fees" are subject to sales and use tax as a "value proceeding or accruing" from the taxable sale of tangible personal property. According to the Court, the gross proceeds of sales include all value that comes from or is a direct result of its sales of tangible personal property and thus amounts collected as "club membership fees" from South Carolina customers are subject to state sales tax. In addition, the Court modified the 2020 Court of Appeals opinion "to the extent it relied on the principle of agency deference as support," concluding that a plain reading of the South Carolina tax code coupled with the interpretation this Court has "repeatedly utilized results in our sales tax being more inclusive than those of other states." The Court explained that the club memberships possess value based solely on the discounts they afford on taxable sales; therefore, the bookseller's sales of such memberships are subject to sales tax in South Carolina. Citing other states' cases interpreting their tax statutes in support of its argument, the taxpayer unsuccessfully had claimed that its optional club membership fees did not constitute "tangible personal property" under South Carolina law and thus were not subject to state sales tax. Dissenting opinions follow. Please contact us with any questions.

[URL: https://www.sccourts.org/opinions/HTMLFiles/SC/28110.pdf](https://www.sccourts.org/opinions/HTMLFiles/SC/28110.pdf)

[URL: https://www.sccourts.org/opinions/HTMLFiles/COA/5721.pdf](https://www.sccourts.org/opinions/HTMLFiles/COA/5721.pdf)

— Ryan Trent (Charlotte)  
Senior Manager  
Deloitte Tax LLP  
rtrent@deloitte.com

Kathy Saxton (Atlanta)  
Managing Director  
Deloitte Tax LLP  
katsaxton@deloitte.com

Lindsay McAfee (San Francisco)  
Senior Manager  
Deloitte Tax LLP  
lmcafee@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](http://www.deloitte.com/about) to learn more.