

Income/Franchise:

New York High Court Denies Reviewing Appellate Court Opinion in Statutory Resident Case

2023 NY Slip Op 61732 (Motion No: 2022-758), N.Y. (review denied 2/9/23). The New York State Court of Appeals rejected the New York State Department of Taxation and Finance's request for review of a 2022 opinion issued by the New York State Supreme Court, Appellate Division, Third Department, which held that an individual domiciled in New Jersey who, due to his employment, spent more than 183 days in New York during each year at issue and owned a vacation home in upstate New York that was suitable for year-round use was not a statutory resident for New York State personal income tax purposes [see Case No. 533310, N.Y. App. Div. (6/30/22) and previously issued Multistate Tax Alert for more details on the appellate court ruling]. Please contact us with any questions.

[URL: https://www.nycourts.gov/reporter/motions/2023/2023_61732.htm](https://www.nycourts.gov/reporter/motions/2023/2023_61732.htm)

[URL: https://decisions.courts.state.ny.us/ad3/Decisions/2022/533310.pdf](https://decisions.courts.state.ny.us/ad3/Decisions/2022/533310.pdf)

[URL: https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-york-appellate-court-reverses-tax-appeals-tribunal-in-statutory-resident-case.pdf](https://www2.deloitte.com/content/dam/Deloitte/us/Documents/Tax/us-tax-multistate-tax-alert-new-york-appellate-court-reverses-tax-appeals-tribunal-in-statutory-resident-case.pdf)

— Jack Trachtenberg (New York)
Principal
Deloitte Tax LLP
jtrachtenberg@deloitte.com

Don Roveto (New York)
Partner
Deloitte Tax LLP
droveto@deloitte.com

Dennis O'Toole (New York)
Managing Director
Deloitte Tax LLP
deotoole@deloitte.com

Mary Jo Brady (Jericho)
Senior Manager
Deloitte Tax LLP
mabrady@deloitte.com

Gregory Bergmann (Chicago)
Partner
Deloitte Tax LLP
gbergmann@deloitte.com

Roburt Waldow (Minneapolis)
Principal
Deloitte Tax LLP
rwaldow@deloitte.com

Josh Ridiker (New York)
Senior Manager
Deloitte Tax LLP
jridiker@deloitte.com

Shirley Wei (Los Angeles)
Senior Manager
Deloitte Tax LLP
shiwei@deloitte.com

Jeremy Sharp (Washington, DC)
Senior Manager
Deloitte Tax LLP
jesharp@deloitte.com

Olivia Schulte (Washington, DC)
Manager
Deloitte Tax LLP
oschulte@deloitte.com

Alyssa Keim (Philadelphia)
Manager
Deloitte Tax LLP
jridiker@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

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.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.